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FOREWORD

This volume is an exact photo-reproduction of an original copy of the

TREASURY DECISIONS

UNDER INTERNAL REVENUE LAWS

OF THE UNITED STATES

Volume 1

1898-99

As a copy of the original is practically unobtainable, this volume is offered to enable law libraries to complete their collection of government publications.

The edition has a limited printing.

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March, 1944

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COMPILATION OF DECISIONS

RENDERED BY THE

COMMISSIONER OF INTERNAL REVENUE

UNDER THE

WAR-REVENUE ACT OF JUNE 13, 1898.

JANUARY, 1899.

WASHINGTON:
GOVERNMENT PRINTING OFFICE.
1899

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TREASURY DEPARTMENT,

Document No. 2089.

Commissioner of Internal Revenue.

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PREFATORY.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 31, 1899.

The following decisions of this office, under the act of June 13, 1898, known as the war-revenue act, were originally published in the weekly editions of Treasury Decisions. In view of the great demand made upon the Department for copies of these decisions, the editions of which have been exhausted, it has been deemed advisable to issue this publication, which contains decisions extant December 31, 1898. Decisions which have been revoked are omitted.

For convenience of reference, the original numbering has been retained.

It is believed that this publication will be found convenient and useful to officers of the internal-revenue service, and to others who have occasion to use it.

N. B. SCOTT,
Commissioner of Internal Revenue.

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DECISIONS UNDER WAR-REVENUE ACT.

AUTHORITY OF DECISIONS OF COMMISSIONER OF INTERNAL REVENUE.

(20459.)

No appeal save to the courts.

The decisions of the Commissioner are authoritative, and can not be overruled by any other executive officer—Appeal to the courts can only be made after taxes have been paid and application for refunding rejected by the Commissioner.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 22, 1898.

SIR: On the 22d of November this office acknowledged to you the receipt of a letter from Mr. Frank H. Platt, 35 Wall street, New York City, inclosing a blank form, on which the United States Express Company does its business in the transfer of money by telegraph, and asking the liability to the stamp tax of such transactions. Mr. Platt further stated that Deputy Collector Wood had informed the company that these telegraphic orders were taxable at the rate of 2 cents per $100 or fraction thereof.

This office instructed you to advise Mr. Platt that an order for the transfer of money by telegraph within the United States requires a 2-cent stamp as an order for the payment of money at sight or on demand, and the message transmitting the order requires a 1-cent stamp, as required by law on telegraphic messages, and not a 2-cent stamp on each $100 or fraction thereof.

On November 29 Mr. Platt acknowledged the receipt of your instructions pursuant to the foregoing, and made the following statement:

As this is a legal question upon which there is room for reasonable difference of opinion, and as we think that the decision of the Commissioner of Internal Revenue is not in accordance with the law, may we suggest to you that the matter be immediately submitted by you to the United States attorney, with a view to having the question submitted to the United States court on an agreed statement of facts? In that way we can obtain an authoritative decision on the subject without any delay.

You will please inform Mr. Platt that the internal-revenue tax is not collected through the courts, and the decisions of the Commissioner of

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Internal Revenue on the subject are authoritative, and no other executive officer has the power to overrule them. The courts can be appealed to after the Commissioner's decisions have been complied with, and not before. The statutes provide the machinery for the appeal after application has been made to the Commissioner of Internal Revenue for refunding.

Mr. Platt seems to labor under a grave misapprehension in regard to the manner in which the internal revenues are collected. If persons who objected to the decisions of a Commissioner of Internal Revenue were at liberty to appeal to the courts before payment, very few dollars would flow into the Treasury, at least for the first few years after an internal-revenue bill was enacted. The statutes have, therefore, wisely provided that no suit for the purpose of restraining the assessment or collection of any tax shall be maintained in any court (sec. 3224, Rev. Stats.)

You are therefore directed, if you find that the United States Express Company has not been complying with the law, as above defined by the Commissioner of Internal Revenue, to call on said company for a return of the amount of taxes not so paid, and on failure to receive such a return you will proceed to make an assessment, from the best information you can obtain, covering the amount. This assessment, if not paid after due notice, must be collected by distraint, and after payment Mr. Platt can seek his remedy, if so disposed, through the courts.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHARLES H. TREAT,
Collector Second District, New York, N. Y.

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AGREEMENTS OF SALE, ETC.

(*See also* DECISION 19972, p. 279; 20083, p. 66.)

(19739.)

Stamp tax—Agreement of sale, etc., at live-stock exchanges.

Transactions of live-stock exchanges—Duty of exchanges, when sale is made, or an agreement of sale, or an agreement to sell entered into, to give to buyer a bill, memorandum, or other evidence of such sale, and to place thereon the required stamp.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 20, 1898.

SIR: I have considered the question whether the transactions of the Kansas City Live Stock Exchange, to which you call my attention, are liable to tax under the war-revenue act.

The law provides as follows:

Upon each sale, agreement of sale, or agreement to sell any produce or merchandise at any exchange or board of trade, or other similar place, either for present or future delivery, for each one hundred dollars in value of said sale, or agreement of sale, or agreement to sell, one cent; and for each additional one hundred dollars or fractional part thereof in excess of one hundred dollars, one cent.

Live stock bought and sold in the market should, in my opinion, be covered under the head of merchandise. I hold, therefore, if live stock is sold at an exchange or board of trade or other similar place, either for present or future delivery, the sale, agreement of sale, or agreement to sell should be evidenced by a bill, memorandum, or agreement to be delivered by the seller to the buyer, and this evidence should have the stamp required in the act.

If the above-named association is not operating under a misnomer, it is an exchange, the name adopted by the association itself being "The Kansas City Live Stock Exchange." The business of the concern is to deal in live stock, cattle, and, as I understand, negotiate sales for the owners of such stock, who bring or send it to Kansas City to be put upon the market.

I think the business carried on by this exchange is included within the provisions of the paragraph of the act to which I have above referred, and that it is the duty of this exchange, when a sale is made, or an agreement of sale, or an agreement to sell entered into, to give to the buyer a bill, memorandum of agreement, or other evidence of such

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sale, agreement of sale, or agreement to sell, and to place thereon the stamp required by the act, which is 1 cent for each $100 in value of the said sale, agreement of sale, or agreement to sell, and 1 cent for each additional $100 or fractional part thereof in excess of $100.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. M. S. PETERS,
House of Representatives, Washington, D. C.

(20031.)

Stamp tax—Sales at live-stock exchanges.

Tax on sales "at any exchange, or board of trade, or other similar place"—Live stock comes within the classification of "any products or merchandise"—"Similar place" defined in reference to the selling of live stock; sales of live stock at such places as those defined subject to taxation.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 13, 1898.

SIR: Your letter of the 2d instant, relative to the business transactions at the Union Stock Yards, South Omaha, has been received, with inclosures.

You report that at this place commission merchants have in charge various lots of live stock shipped from different points to them for sale, and that it is the practice there for commission men to meet with buyers for the large packing house companies, who inspect the various lots of such stock as they desire to purchase, make offers for the same, and when a trade or deal is made the stock yards company issues to the seller a ticket showing the items relating to the transaction, and the commission men (the sellers) issue to the person to whom the stock is sold a bill of sale describing the stock sold, with weight and rate, and giving the date and place where sold, samples of which papers in a transaction by Wood Brothers with the Hammond Packing Company and by the Rosenbaum-Buchanan Company with Swift & Co. are inclosed with your letter.

You state that a member of the Rosenbaum-Buchanan Company informed you that similar papers were submitted to this office for decision some time ago, but that no answer had been received. "He also stated that business was done in the same manner at the Union Stock Yards, of Chicago; that his firm was ready and willing to stamp if they were liable, and would show their books and pay from the time the law went into effect, but that they could not observe the law if others did not, because the expense of stamping would be charged up to their customers, and if they should charge and others did not they would lose trade; they are, therefore, waiting to see what Chicago is

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going to do, and for a decision as to their liability." You state that during the trading at this place everything is done verbally, and that no memoranda of sale are made or passed, but at the conclusion of the deal the stock yards company make a ticket showing the class, number, and weight of the stock sold, upon which the commission merchant who sells the stock makes out a bill (like the sample you inclose) and sends to the buyer of the stock; that the company purchasing indorses this bill with an order for the bank to pay the amount, attaching a 2-cent revenue stamp, the same as to a check. This bill or memorandum of sale complies, in its terms, with the requirements imposed by the provisions of the act of June 13, 1898, in Schedule A, in all respects, with the exception that there is not affixed to the same a lawful stamp or stamps in value equal to the amount of tax on the sale. The commission merchant also makes out and renders an account of sales to the party shipping live stock to him.

The case submitted by the Rosenbaum-Buchanan Company was settled on the 10th instant in a letter to Hon. William V. Allen, United States Senator from Nebraska, who had forwarded the papers therein by request of Mr. E. M. Bartlett, their attorney. In his legal opinion Mr. Bartlett advised these parties that their business is that of a commission merchant, and he objects to the payment of tax by commission merchants on their contracts, as he styles them. It was explained, however, in the decision in regard to their case that the question depends entirely upon the method under which the business is conducted, and they will understand fully from its terms that they come within the provisions of the law imposing a tax upon sales made at "any exchange or board of trade or other similar place." There can be no question but that live stock must be included within the designation of "products or merchandise," upon the sales of which tax is imposed. Whether or not the place where their sales are made is similar to that of an exchange or board of trade is the only point remaining. The distinctive feature prominent at an exchange or board of trade is an assemblage of traders in order to obtain the best market and most favorable dealings. It is not necessary, in order that sales of live stock should be brought within the provisions of this act, that they should be conducted at a building in the heart of the city. Similar features to those of an exchange or board of trade can exist as well at the Union Stock Yards or any other chosen place—that is to say, at a place where a number of traders, buyers and sellers, meet.

The Union Stock Yards at your city, or such yards in any other part of the country, are not an exchange or a board of trade, but in the business transacted at all such places, and within their limits, the trading and opportunities afforded to make trade by the commingling of traders, buyers and sellers, of the property there dealt in, they come within the exact description of being a "similar place" thereto, and the sales made there are clearly within the provisions of the law impos-

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ing a tax upon sales at any "exchange, or board of trade, or other similar place." It must be understood by these parties that the tax is imposed not upon their business as commission merchants, but upon the sales made at the particular place of selling. Sales made at a private yard, or while a lot of stock was in the cattle cars, or pasturing on the prairie, where the environments limited the dealings, would not be subject to taxation, while sales made at a general meeting place of traders, sought out for the advantages there to be obtained, are clearly within the provisions of the law.

You will, therefore, inform all parties making sales through the medium of such places that for each $100 in value of the sale or agreement of sale or agreement to sell, 1 cent, and for each additional $100, or fractional part thereof in excess of $100, 1 cent in taxes must be paid by stamps to be affixed to the bill, memorandum, agreement, or other evidence of the sale. The books showing all such sales subsequent to July 1, 1898, must be produced and examined, and the amount of tax which should have been paid must be ascertained and collected, and hereafter the tax must be paid promptly in the manner provided by law. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. GEORGE H. WHEELOCK, *Revenue Agent, Omaha, Nebr.*

BANK DRAFTS.

(*See* CHECKS, DRAFTS, NOTES, ETC.)

BANKS AND BANKERS.

(*See also* DECISION 19701, p. 226; 20192, p. 104.)

(19695.)

Special tax—Capital of banks.

In estimating special tax of banks upon capital and surplus, the amount invested in United States bonds is not to be deducted.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 14, 1898.

SIR: In reply to a letter addressed to this office by Mr. Henry C. Stroup, president of the Farmers and Mechanics' National Bank of Philadelphia, you will please inform him that in estimating the amount of special tax required to be paid by his bank, based, as the law requires, upon capital and surplus, the amount invested in United

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States bonds is not to be deducted. There is no provision of the law which warrants such deduction.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. P. A. MCCLAIN,
Collector First District, Philadelphia, Pa.

(19758.)

Special tax—Banks.

A bank engaged in business in the month of July must pay special tax for the entire year beginning July 1, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 25, 1898.

GENTLEMEN: In reply to your letter of the 20th instant, you are hereby advised that your bank, being engaged in business in the month of July, 1898, is required to pay the special tax imposed by the first paragraph of section 2, act of June 13, 1898, and that this special tax, under the provisions of section 3237, Revised Statutes (which applies to all special taxes under the internal-revenue law of the United States), must be paid for the entire year beginning July 1. Return should accordingly be made to the collector within this month, in order to avoid the penalty of 50 per cent, which the provisions of section 3176, Revised Statutes, make it the imperative duty of the Commissioner to add to the amount of special tax if such return is not made within the time prescribed by the law, viz, within the calendar month in which the liability begins (section 3237, Revised Statutes, as amended by section 53 of the act of October 1, 1890).

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

The FIRST NATIONAL BANK, *Philadelphia, Pa.*

(19797.)

Special tax—Returns of banks.

Tax to be computed upon capital including surplus, undivided profits, etc.—Method of computing capital and surplus for preceding fiscal year.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 29, 1898.

SIR: Your letter of the 27th instant relative to the preparation of your return for payment of special tax imposed by the war-revenue act of June 13, 1898, to take effect July 1, 1898, has been received.

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In preparing your return you will be guided by the following rules: The law, section 2, specifically provides that the tax shall be computed upon the capital, and that, in estimating capital, surplus shall be included. In estimating surplus this office holds that undivided profits[1] must be included. The law also specifically provides that the amount of such annual tax shall in all cases be computed on the basis of the capital and surplus for the preceding fiscal year, and this office holds that if the capital and surplus varied from time to time during the preceding fiscal year the same may be averaged, as was specifically provided by law in the case of capital under the revenue act of June 30, 1864. It was found to be necessary in the case of deposits under the act of 1864 to ascertain the average by adding together the amounts at the close of business of each business day and dividing the amount by the number of business days. This method should be adopted under the new law. The need of averaging is obviously greatest as to undivided profits. It is held to be improper to reduce the amount of undivided profits by unaccrued interest or by profits to be divided.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. L. W. BURLEN,
Cashier The Columbian National Bank, Boston, Mass.

(19827.)

Special tax—Banks.

Where capital and surplus have varied from time to time during the preceding fiscal year, the average for the year should be ascertained and the special tax reckoned on that basis.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 4, 1898.

SIR: Your letter of the 29th ultimo has been received, inclosing a statement made by one of the banks in your city, and referring to their return as filed with your June list, showing that they have paid special tax only on $90,000 capital, claiming that the undivided profits[1] which were on hand June 30, 1898, should not be taken into account with the capital and surplus for the preceding fiscal year, in ascertaining the amount of special tax due, as they "were paid out on the first day of July as earnings of the preceding six months."

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[1] After this publication went to press, the honorable Attorney-General, on February 3, 1899, rendered an opinion that "the undivided profits of a bank are not surplus and can not be estimated under the law in question as a part of the bank's surplus." (For further information, see the opinion, printed in Treasury Decisions, Vol. 1, No. 6, 1899, p. 287.)

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You are hereby advised that the rule laid down by this office (following, in this respect, the express provision of the act of June 30, 1864) is to estimate the amount of special tax by taking the general average of capital and surplus, including undivided profits, employed during the preceding fiscal year.

You will please follow this rule in the case of every bank in your district whose capital and surplus have varied from time to time during the preceding fiscal year. Let the general average of capital employed be ascertained in every such case, and the special tax be reckoned thereon and paid.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. E. T. FRANKS, *Collector Second District, Owensboro, Ky.*

(19882.)

Special tax—Banks.

Where capital and surplus (including undivided profits) have varied from time to time, the average amount employed during preceding fiscal year should be ascertained and the special tax reckoned on the basis of that average.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 10, 1898.

SIR: In reply to your letter of the 21st ultimo, concerning a savings bank with a capital stock which, by resolution passed prior to July 1, 1898, "set aside a portion of its surplus to be divided among its stockholders as a dividend, and made a special account of the same for that specific purpose, but has not distributed the same," you are hereby advised that if, prior to the passage of this resolution and the setting aside of the portion of the surplus to which you refer, such surplus had been used during the year preceding July 1, 1898, in carrying on this banking business, it must be included, notwithstanding the resolution, with the capital in reckoning the amount of special tax that is required to be paid by this bank for the present fiscal year.

Where the capital and surplus (including undivided profits[1]) have varied from time to time during the preceding year, the average of the amount employed, during the preceding fiscal year, should be ascertained, and the special tax required to be paid should be reckoned on the basis of this average.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JOHN C. LYNCH,
Collector First District, San Francisco, Cal.

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[1] See note to 19797, page 14.

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(20166.)

Special tax—Banks.

Where the capital of a bank exceeds $25,000, the tax of $2 (additional to the $50 special tax) is only required to be paid on each $1,000 over and above the $25,000 of capital. For any excess that is less than $1,000 no additional special tax is required.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 11, 1898.

SIR: The assistant cashier of the State National Bank, at Frankfort, Ky., in a letter to this office, states that on the 1st of July his bank reported a "capital, including surplus and undivided profits,[1] of $196,300.18," but in remitting check for payment of the special tax, intentionally omitted in the calculation $300.18, holding that under the law the bank was only required "to pay $2 on each $1,000 over and above $25,000 capital and nothing on anything less than $1,000." As, however, you insisted that this construction of the law was wrong, at your request, he says, the bank remitted you 60 cents, being the tax on $300.18 at the rate of $2 per $1,000, and that while they "have no desire to recover the 60 cents" they "would like to know whose construction of the law is correct."

In the opinion of this office, it is clear that the bank's construction of the law is correct, as the language of the statute is "for every additional thousand dollars in excess of twenty-five thousand dollars, two dollars."

The collection of $2 for any sum less than $1,000 in excess of $25,000 is evidently unwarranted by this language. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. S. J. ROBERTS, *Collector Seventh District, Lexington, Ky.*

(20419.)

Special tax—Banks.

Where two banks, which have carried on business in separate places, and have each paid its special tax, consolidate, the consolidated bank must pay special tax at the rate of $50 from the first day of the month when it began business to the 1st day of July following.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 13, 1898.

SIR: Your letter of the 5th instant has been received, stating that two banks of your city have consolidated, and they contemplate a reor-

[1] See note to 19797, page 14.

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ganization and change of corporate name; that one of these banks paid special tax on the basis of $254,000, and the other on $101,000; that the new bank will be capitalized with $325,000, and that the cashier desires to know if the (new) bank must pay special tax.

In reply you are advised that you were correct in holding that said consolidated bank is liable to tax as bankers, and it must pay special tax as such at the rate of $50 for the year, which is to be reckoned from the first day of the month in which it began business to the 1st day of July following (see decision No. 20114, page 21). Also, that all certificates of stock issued under the new corporate name must be stamped, as provided under paragraph 1 of Schedule A of the act of June 13, 1898.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. E. T. FRANKS, *Collector, Owensboro, Ky.*

(19560.)

Special tax—Bankers.

Manufacturing companies having on hand cash surplus, awaiting use in payment of dividends, which surplus meanwhile is loaned upon collaterals, are required to pay special tax as banks under the act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 23, 1898.

GENTLEMEN: Your letter of the 21st instant has been received, wherein you say:

We represent clients engaged in manufacturing who, from time to time, have on hand a cash surplus awaiting use for the payment of dividends, purchase of supplies, and other necessities of the business. While the surplus is waiting to be used it is loaned upon collaterals.

You inquire whether the making of such loans constitutes the lender a banker within the meaning of the second section of the act of June 13, 1898; and, if so, "what is to be regarded as the amount of capital used, as, for example, in a case where the capital of the company is $10,000,000, while the average amount loaned does not exceed $1,000,000?"

In the opinion of this office, the language of that section, which provides "that every person, firm, or company * * * having a place of business * * * where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes * * * shall be a banker under this act," clearly subjects the person, firm, or company to whom you refer to special tax as a banker.

The amount of the special tax to be paid is required to be estimated upon the amount of capital used in the business. The fact that any manufacturing company or firm makes use of its surplus (as in the

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case which you state) in doing a banking business does not involve it in special-tax liability estimated upon the entire amount of capital employed by it in its manufacturing business.

It is held, therefore, that it is not this amount, but simply the amount of surplus on hand for the purpose of making loans that is to be taken as a basis for estimating the amount of special tax.

It is not the average amount loaned within the year, but the entire amount of surplus on hand out of which loans may be made.

Return should be made to the collector of the district for the computation of the annual tax on the basis of this surplus (or capital) "for the preceding fiscal year," as provided for by the statute.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

PARSONS, SHEPARD & OGDEN, *New York, N. Y.*

(19571.)

Special tax—Bankers.

Incidental banking business—Charter party—Export bills of lading—Broker's contract of sale of merchandise.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 25, 1898.

SIR: I reply as follows to the series of questions submitted by W. R. Grace & Co., of New York, in their letter to you dated the 23d instant, which you have referred to me:

1. For the incidental banking business which they state they do for the convenience of their various correspondents throughout South America, they are required to pay special tax as bankers under section 2 of the act of June 13, 1898. But, in estimating the amount of this special tax, the entire capital of their house, which, they say, is $3,000,000, "employed in the steamship and merchandise business," is not to be taken as the basis of this estimate, but only those funds in their hands from the proceeds of merchandise sold which they hold or make use of for the purpose of doing any of the business of banking as defined in that section. If the funds thus held and used have not exceeded $25,000 in the preceding fiscal year, the amount of their special tax is $50.

2. On a charter party the tax is required by the act to be paid on the original charter party only, and the stamp affixed thereto for the entire tax. Stamps are not required by the law on copies of the charter party.

3. In the case of a shipping receipt issued, which, they say, is afterwards presented at the office and a bill of lading issued in exchange therefor, the tax of 10 cents is required to be paid both on the shipping receipt and on the bill of lading; and the requisite stamp must be

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affixed to each. As to bills of lading or receipts for merchandise to be exported, it is held that no stamp tax is required to be paid on copies of such bills of lading. The bills of lading on which and on "each duplicate" of which tax is required to be paid are those only which are referred to in the eighth clause of Schedule A as requiring "a stamp of the value of one cent."

4. As brokers, they are required to pay a tax of 10 cents only on each contract of sale, and nothing on contract of purchase. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. CHARLES G. BENNETT,
House of Representatives, Washington, D. C.

(19682.)

Special tax—Bankers.

Definition of bankers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 12, 1898.

SIR: Herewith is returned at your request the letter addressed to you by Mr. G. J. Redfearn, secretary and treasurer of the Chesterfield Banking and Mercantile Company, Chesterfield, S. C., inquiring whether they are liable to the special tax of $50 as bankers under the first paragraph of section 2 of the act of June 13, 1898. They state that they began business in March, 1898, with an authorized capital stock of $5,000, of which amount there had been paid in $2,500; that they have a broad charter which enables them to adopt any line of trade that proves to be most profitable; and that so far they have invested their funds in merchandise. He further says:

We also accept deposits which are drawn out at pleasure of the depositor. In other words, we simply furnish the community a medium of exchange and convenience for which we make no charge and derive no income.

You will please inform Mr. Redfearn that irrespective of the fact which he states, that his company makes no profit out of these deposits, nevertheless, "having a place of business where credits are opened by the deposit * * * of money or currency, subject to be paid or remitted upon draft, check, or order," the company comes expressly within the definition of bankers in this act, and must, therefore, be required to pay the special tax.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. B. R. TILLMAN, *United States Senate.*

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(19793.)

Special tax—Bankers.

Borrowed capital must be taken into account in estimating amount of special tax required from bankers under the first paragraph of section 2, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 28, 1898.

SIR: In reply to the letter addressed to you on the 21st instant by Mr. F. G. Renner, of the firm of Woerishoffer & Co., bankers, 52 Exchange Place, New York, which you have referred to this office, you will please inform him that the sum of $75,000 borrowed by them (as he states) for use by his company as capital in the banking business, must be taken into account in estimating the amount of special tax required to be paid by the company as bankers under the first paragraph of section 2 under the act of June 13, 1898.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

(19936.)

Special tax—Bankers.

Private banks unincorporated, whose capital is not $25,000, liable to special tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 23, 1898.

GENTLEMEN: In reply to your letter of the 14th ultimo, you are hereby advised that, although you are "private bankers not incorporated, whose capital is not $25,000" (as you state), the special tax of $50 is nevertheless imposed upon you by the provisions of paragraph 1 of section 2 of the act of June 13, 1898.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

S. C. BULL & Co., *Waterford, N. Y.*

(19969.)

Special tax—Bankers.

Bankers, as well as all other special-tax payers, must be included in Record No. 10, kept by collectors for public inspection under section 3240, Revised Statutes, but nothing is required to be stated in the record but the name of the special-tax payer, his business, the place of business, and the time of payment of the special tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 27, 1898.

SIR: In reply to your letter of the 19th instant, you are hereby advised that as the provisions of section 3240, Revised Statutes, require

the collector to keep conspicuously in his office, for public inspection, a list of all persons who shall have paid special tax in his district, bankers (as special-tax payers) must be included in this list (Record No. 10).

But there is nothing in this statutory provision which requires you to state in the record "the amount for which the banker makes return," as you suggest, nor the amount of special tax paid by the banker. All that you are required to enter opposite the name of the banker in this record is "the time, place, and business" for which he has paid special tax.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. J. DAUGHERTY, *Collector Fifth District, Peoria, Ill.*

(20062.)

Special tax—Bankers.

An association which has a place of business where promissory notes are received for discount or sale must pay a special tax as a banker.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 16, 1898.

SIR: This office has received a letter from Mr. Edwin J. Wilson, of Albion, Ill., under date of the 4th ultimo, * * * stating that about twenty-five young men of his place have formed an association, that each pays into the same $1 per week, and with the money the said association makes loans and discounts notes, and asking whether or not said association is liable for a $50 special tax as a bank.

In reply, you will please inform him that if said association has a place of business where promissory notes are received for discount or sale they must pay the special tax as a banker.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. WM. H. POWELL,
Collector Thirteenth District, East St. Louis, Ill.

(20114.)

Special tax—Bankers.

Bankers who have not been in business during the preceding year must pay the special tax at the rate of $50 for the year beginning July 1, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 28, 1898.

SIR: In reply to your letter of the 24th instant, inquiring as to "the liability of a firm commencing business as bankers after the 1st of July, within the month of August, for instance," you are hereby advised that

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the special tax required therefor is to be reckoned from the 1st day of August to the 1st day of July following, at the rate of $50 for the year beginning July 1, 1898.

The provision of paragraph 1 of section 2 of the act of June 13, 1898, that the amount of the annual tax required to be paid by bankers "shall in all cases be computed on the basis of the capital and surplus for the preceding year," is held to relate only to bankers who have been in business during the preceding fiscal year. In every case where the business is commenced for the first time in the month of July, 1898, the tax is $50.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. G. P. WALDORF, *Collector Tenth District, Toledo, Ohio.*

(20154.)

Special tax—Bankers.

Borrowed money employed as capital must be taken into account in estimating special tax—Money placed with bankers by customers, upon time certificates of deposit, not regarded as capital.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 5, 1898.

SIR: This office is in receipt of your letter of the 8th ultimo, asking whether or not bankers in the United States borrowing money from Europe, which they employ in their banking business, are liable to the special tax computed upon the basis of the average amount so employed during the year.

In reply, you are advised that when bankers borrow money and it is used and employed as capital, it must be taken into account when estimating amount of special tax required of bankers under section 2, act of June 13, 1898. Further, you are advised that money placed with bankers by customers, upon time certificates of deposit, should not be included as part of the capital employed during the year.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. DAVID M. DUNNE, *Collector Internal Revenue, Portland, Oreg.*

(20264.)

Special tax—Bankers.

Loaning money on the personal notes of the borrowers, without collateral security, is not the business of banking contemplated by the statute.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 28, 1898.

SIR: In the first paragraph of your letter addressed to this office on the 14th instant you submit the question of the special-tax liability, as

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bankers, of persons who loan money on wage assignments "and take a promissory note payable either on the installment plan or at one time." In a card which accompanies your letter, issued by one of these money lenders, is the following announcement: "Money loaned to salaried people without security or mortgage."

If this is a true and full statement of this particular business carried on by these persons, it appears, in view of the decision of the Supreme Court in Selden *v.* Equitable Trust Company (94 U. S., 419), that they can not be held liable as bankers. In that case the court said:

To us * * * it appears plain that it is the business of advancing or lending in the mode usual with bankers—that is, on collaterals or on the pledge of personal property—that by the statute is defined to be banking within the intention of Congress.

The stamping of each of these assignments * * * with the 25-cent stamp as a power of attorney is correct.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES D. GILL, *Collector Third District, Boston, Mass.*

(20336.)

Special tax—Bankers.

When the charter of a savings bank is surrendered, and the same persons who are officers and stockholders carry on private banking business, a new special tax is required.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 16, 1898.

SIR: Your letter of the 9th instant has been received, stating that the Adair County Savings Bank, at Bridgewater, Iowa, began business August 15, 1898, and hold the requisite special-tax receipt, and that they "now desire to surrender their charter as a savings bank and continue as private bankers, making no change in the officers or stockholders," and ask whether they will have to take out a new license. You will please advise them that a firm of private bankers, though composed of the same persons who were officers and stockholders of a corporation holding the special-tax receipt, is an entirely different person in law from the corporation, and therefore, can not be authorized to carry on business under the corporation's receipt for tax. These private bankers, therefore, must make return and pay their own tax.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. J. M. KEMBLE, *Collector Fourth District, Burlington, Iowa.*

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(20341.)

Special tax—Bankers.

Certain merchants receiving deposits from grain buyers and not from the general public do not thereby become bankers within the meaning of the statute.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 18, 1898.

SIR: Your letter of the 16th ultimo is received, regarding the liability as bankers of certain merchants who were accepting deposits of money from the grain buyers with which to cash the tickets for grain when presented, thus accepting money subject to check. If deposits are received only from these grain buyers and not from the general public, and the merchants do not hold themselves out as bankers, you are advised that, in the opinion of this office, such transactions are not sufficient to involve said merchants in special-tax liability as bankers within the meaning of the first paragraph of section 2 of the act of June 13, 1898.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. F. VON BAUMBACH, *Collector, St. Paul, Minn.*

(20342.)

Special tax—Bankers.

City merchants who receive on deposit money from country merchants who are their customers, for the convenience of the latter, but not opening such accounts with the public generally, are not regarded as subject to special tax as bankers within the meaning of paragraph 1, section 2, of war-revenue act.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 18, 1898.

SIR: This office is in receipt of your letter of the 10th instant, inclosing a letter from John B. Farwell Company, of your city, under date of the 5th instant, regarding their liability to pay special tax as bankers, upon the following statement of facts:

We refuse absolutely to open any account with anyone who is not a customer. We never solicit an account, nor advertise ourselves in any way by which we could be regarded as bankers. These customers, who are country merchants, have merchandise accounts with us, which, of course, as a rule show large debits. For their convenience, when they send any such money as they can spare from their receipts, we place it in another account which they can transfer to their merchandise account when a discount day arrives. If these remittances were all placed to the credit of their merchandise account, it would make it considerably more difficult for the bookkeeper and the customer to figure his discounts. Occasionally, of course, these customers draw on us to pay bills for groceries or other lines, as we in turn receive drafts from such houses in payment of bills due us.

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They ask whether or not the law was made to cover such cases.

In reply, you will please inform them that, in the opinion of this office, such transactions would not be sufficient to involve said company in special-tax liability as bankers within the meaning of the first paragraph of section 2 of the act of June 13, 1898.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. F. E. COYNE, *Collector, Chicago, Ill.*

(20343.)

Special tax—Bankers.

The receiving of employees' deposits on interest does not involve a company or firm in special-tax liability as bankers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 18, 1898.

SIR: This office is in receipt of a letter from Williams & Edwards, attorneys, Jersey City, N. J., under date of August 12, * * * in which they state (in behalf of their clients) that "a large wholesale and retail dry goods firm has, for some years past, permitted its employees to deposit with the firm such sums from earnings and otherwise as they from time to time desire, on which it allows a uniform rate of interest. Its deposits are entered in pass books, and may be withdrawn by the depositors in whole or in part at any time. * * * No capital is employed in its deposit business, and no loans, discounts, or purchases or sales of securities are made in connection with it. * * * This custom of receiving employees' deposits on interest has been adopted by many firms as an encouragement to economy," and ask if the special tax as a banker is incurred.

In reply you will please inform them that, in the opinion of this office, such transaction would not be sufficient to involve said company in special-tax liability as bankers within the meaning of the first paragraph of section 2 of the act of June 13, 1898.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. WILLIAM D. RUTAN, *Collector, Newark, N. J.*

(20344.)

Special tax—Bankers.

The loaning of money on household goods or other chattel property is not the business of banking contemplated by the statute.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 18, 1898.

SIR: In reply to your letter of the 2d instant, regarding the liability of so-called chattel-mortgage men as bankers or brokers for loaning

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money "upon household goods or other chattel property," you are advised that, in the opinion of this office, such transactions as mentioned in your letter are not sufficient to involve said chattel-mortgage men in special-tax liability as bankers or brokers within the meaning of the first and second paragraphs of section 2 of the act of June 13, 1898.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. F. E. KELLOGG, *Collector, Kansas City, Mo.*

(20349.)

Special tax—Bankers.

Bankers within the meaning of the statute.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 21, 1898.

SIR: Your letter of the 14th instant is received, inclosing a letter addressed to you on the 4th by G. Ives & Sons, of New Boston, Ill., submitting a letter head as showing the character of their business—that is, "Horses, cattle, grain, and general merchandise"—and stating that they receive no deposits, loan no money, but keep a deposit in Chicago, there being no bank in their town, and sometimes sell exchange on Chicago, and asking whether or not they are liable as bankers.

In reply, you are advised that, in the opinion of this office, the facts thus stated are not sufficient to involve Ives & Sons in special-tax liability as bankers within the meaning of the first paragraph of section 2 of the act of June 13, 1898.

The test question as to the liability of a company or firm as bankers, as laid down in the case of Selden *v.* The Equitable Trust Company (94 U. S. R., 419), is whether or not, having a place of business, a firm or person is embraced in any one of the three following classes:

First. Do they have a place of business "where credits are opened (to the general public) by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order"?

Second. Do they have a place of business where money is advanced or loaned on collaterals (stocks, bonds, etc.)?

Third. Do they have a place of business where stocks, bonds, bullion, bills of exchange, or promissory notes are received from another person, for sale, or bills of exchange or promissory notes are received for discount, belonging to that other person?

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. A. J. DAUGHERTY, *Collector, Peoria, Ill.*

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(20365.)

Special tax—Bankers.

Merchants do not bring themselves within the definition of bankers in the first paragraph of section 2 in the act of June 13, 1898, by reason of selling their own drafts to their customers; they are not, on this account, required to pay special tax as bankers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 21, 1898.

SIR: This office is in receipt of your letter of the 15th instant regarding the liability as bankers of C. R. Blair & Co., merchants of Egota, stating that Deputy Collector Lobdill insists upon their paying the special tax. You state that said firm has bank accounts at Winona and Rochester, Minn., "on which, for the accommodation of their customers, they draw against exchange, which is sold by them to their customers. They receive no deposits, they make no loans, nor are they required, either by State or national law, to make any report of their business," and ask whether or not said firm is liable to special tax as a banker.

In reply, you will please inform them that such transactions as you state in your letter would not, in the opinion of this office, subject said firm to special-tax liability as bankers within the meaning of the first paragraph of section 2 of the act of June 13, 1898.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Hon. JAMES A. TAWNEY, *Winona, Minn.*

(20397.)

Special tax—Bankers' branch banks.

Special tax must be paid for every branch established by a bank at which the business of banking is carried on.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 6, 1898.

SIR: Your inquiry of to-day regarding the liability of branch banks has had careful consideration. You state that the Lynchburg Trust and Savings Bank, doing a business at Lynchburg, Va., upon a capital of $175,000, paid a tax of $350 July 29, 1898; that this bank has a branch at Bedford City, doing business since July 1, 1898, upon the same capital; also a branch at Clifton Forge, doing business since September 1, 1898, upon the capital of the parent bank, and ask what tax is due from each of these branches.

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In reply, you are advised that said branch at Bedford City must pay special tax of $50, and said bank of Clifton Forge, doing business since September 1, 1898, must pay special tax at the rate of $50 for the year from September 1 to July 1, following.

In this connection, I will say that where the parent bank and the branch banks were in operation during the fiscal year ending June 30, 1898, and the parent bank has paid the tax on its total capital and surplus, the branch bank must pay special tax on the average capital and surplus it employed during the year ending June 30, 1898, and said parent bank can make claim for proportionate refund where return was made of the entire amount of the capital and surplus as used for the principal bank, although, in fact, part of this was sent to and employed at the branch bank.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. PARK AGNEW, *Collector, Alexandria, Va.*

BEER.

(*See* LIQUORS.)

BILLIARDS, ETC.

(*See also* DECISIONS 19610, p. 52; 19745, p. 205; 20313, p. 54.)

(19743.)

Special tax—Billiard tables.

Club not required to pay special tax on its billiard tables.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 21, 1898.

SIR: In reply to your letter of the 28th ultimo, you are hereby advised that, while a social club, selling wines or other alcoholic liquors to its members under the long-settled ruling as laid down by Judge Lowell in the case of Wittig, 22 Internal Revenue Record, 98 (that any course of selling, though to a restricted class of persons and without a view to profit, is within the meaning of the statute imposing the special tax), is required to pay special tax as a retail liquor dealer, it is not required to pay a special tax as a proprietor of a billiard room under the ninth paragraph of section 2 of the act of June 13, 1898, by reason of the fact that it keeps billiard tables for the use of its members and their invited guests, as the special tax imposed upon proprietors of bowling alleys and billiard rooms by that section expressly relates only to a building or place "open to the public." A social club, admitting to

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its privileges only its own members and their invited guests, can not properly be regarded as open to the public.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. J. DAUGHERTY, *Collector Fifth District, Peoria, Ill.*

(20122.)

Special tax—Bagatelle table.

As a bagatelle table is neither a billiard table nor a pool table within the meaning of the ninth paragraph of section 2 of the act of June 13, 1898, no special tax is required therefor.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 30, 1898.

SIR: This office is in receipt of a letter from Mr. S. T. Bridwell, Anchor Hotel, Westminster, Md., under date of August 30, * * * asking whether or not a bagatelle table is subject to special tax.

In reply, you will please advise him in the negative; that paragraph 9 of section 2, act of June 13, 1898, only refers to billiard and pool tables and bowling alleys.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. F. PARLETT, *Collector Internal Revenue, Baltimore, Md.*

(20126.)

Special tax—Tivoli table.

A tivoli table, which is materially different from a billiard or pool table, even though the ball used thereon is propelled by a cue, is not subject to special tax under the ninth paragraph of section 2 of the act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 4, 1898.

SIR: Your letter of the 1st ultimo, referring to an answer given by this office to a former letter of yours, relating to the question of the special-tax liability of the proprietor of a tivoli table, has been received. You submit a cut of the table in question, and say:

MM′ and NN′ are grooves at the side, up which the ball is propelled. This may be done by a cue or thrown from the hand. B is a ball resting near the top of the inclined surface of the table, which, if struck, counts the player a certain number of points. The ball, propelled by the cue or hand, then rolls down the incline, bounding from nail to nail. On the way it may chance to fall into the trap X, thus counting 200; or into the trap Y or Z, thus counting 125; or into the trap R, counting 250. If the ball reaches the bottom, it passes into one or the other of the pockets numbered 55, 45, etc.

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From the cut and the description which you thus give of this table, this office coincides with you in the opinion that it is materially different from a billiard or pool table. It is, therefore, held that special tax is not required to be paid thereon under the ninth paragraph of section 2 of the act of June 13, 1898, even when the cue is used instead of the hand in propelling the ball. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. H. C. GRENNER, *Collector First District, St. Louis, Mo.*

BILLS OF LADING.

(*See also* DECISIONS 19571, p. 18; 19604, p. 251.)

(19734.)

Stamping of export bills of lading.

Duplicates and triplicates required by law, or regulations pursuant to law, taxable at 10 cents each—Duplicates made by carrier, for his own convenience, held to be copies, and not liable to stamp tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 19, 1898.

SIR: Referring to so much of office letter of the 14th instant as requires a 10-cent stamp to be affixed to each bill of lading, you are advised that the ruling was made in regard to a bill of lading required by a regulation of this Department made pursuant to law that the bill of lading should be executed in triplicate, and was not intended to refer to an export bill of lading, of which, in the course of business, the carrier, for his own convenience or otherwise, except when required to do so by law or by a regulation of this Department made pursuant to law, makes a duplicate. Such duplicate is regarded as a copy, and as such is not liable to the stamp tax.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. S. J. ROBERTS, *Collector Seventh District, Lexington, Ky*

(19803.)

Bills of lading.

Duty of the carrier to furnish the shipper a stamped bill of lading or a receipt—As to remedy in case of refusal.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 1, 1898.

SIR: Your letter of June 30 to the Secretary of the Treasury was by him referred to this office for reply. * * *

You ask as to whose duty it is to pay the expense of the stamp required for bills of lading or receipts given by common carriers.

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I answer that the carrier who accepts merchandise for transportation is required to furnish the shipper a stamped bill of lading or receipt therefor. If he fails to do this he incurs criminal liability; but if he refuses to accept the goods for transportation, except on condition that the owner or shipper shall pay the sum necessary to purchase the stamp or stamps, in addition to the customary charge for the transportation, the war-revenue law provides no remedy, nor does any internal-revenue law. It would seem that in such cases the aggrieved parties must depend upon the common or statute law of the State, defining the obligations of common carriers.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. N. B. KELLY,
Freight Commissioner, Trades League, Philadelphia, Pa.

(19829.)

Stamp tax—Bills of lading, etc.

The common carrier shall issue bills of lading, manifest, or other evidence of receipt and forwarding—"Shipment" defined—On a through bill of lading it is one shipment, though several modes of conveyance are employed—Every separate shipment requires evidence that it has been made, and to the evidence the stamp is affixed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 4, 1898.

SIR: This office is in receipt of a letter from Andrew Crawford (suit 1016), Ashland Block, Chicago, Ill., submitting a number of questions and asking for rulings thereon.

(1) A ships 100 crates of berries by the same steamer to six different commission men. Do the manifests or receipts require one stamp or six stamps?

The act recites that for each shipment received for carriage or transportation the common carrier shall issue to the shipper or consignor, or his agent, or person from whom the goods are accepted, * * * a bill of lading, manifest, or other evidence of receipt and forwarding. It seems that a shipment would mean the goods or property sent by means of a common carrier from a shipper (consignor) to a consignee. If there is more than one consignee to this shipment of 100 crates of berries and each consignee receives a part of the total number of crates shipped, that it is, as to each consignee, a separate shipment, though it may be all included in one paper, the tax is imposed on the shipment, not on the evidence of it. The stamp denoting payment for the shipment is affixed to the paper evidencing the shipment. This office holds that these are six shipments, and should be taxed 6 cents, 1 cent on each.

(2) If the receipt is stamped in such case, does the manifest or bill of lading require to be also stamped?

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From this question it is presumed that a bill of lading or manifest is given in addition to a receipt. If this is true, the manifest or bill of lading should have the stamp affixed to it.

(3) Where goods are shipped by rail by a through bill of lading to a given point and part of the intermediate line is by boat, is the stamping where the freight originates sufficient to cover the whole route?

The one shipment bears but one tax, although in completing the shipment transit by rail, boat, or other method of conveyance is required.

(4) Where no receipt is given for freight received, and the manifest is written up in a book used for that purpose and no bill of lading is issued, will it be a sufficient compliance with the law to affix the stamps in such book, or would it require separate 1-cent stamps for each shipment?

The stamps should be affixed to the evidence of receipt and forwarding for each shipment, whether this evidence is in the form of a bill of lading, manifest, receipt, or book, and the common carrier is compelled by law to issue this evidence of receipt and forwarding.

Each separate shipment requires a 1-cent stamp. If the manifest or other evidence contains 20 shipments, it will be a sufficient compliance with the law to affix internal-revenue stamps to the value of 20 cents.

* * * * * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. FREDERICK E. COYNE, *Collector First District, Chicago, Ill.*

(19846.)

Stamp tax—General bundle of newspapers.

When tax is paid on general bundle of newspapers, each package in the general bundle which is taken therefrom and delivered at intermediate points does not require a stamp.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 9, 1898.

SIR: I have considered your letter of the 7th ultimo, inclosing a letter addressed to you by Mr. J. H. Zerbey, editor of the Pottsville Daily Republican, stating that he is sending over the Pennsylvania Railroad "single papers wrapped and addressed to various small suburban flag stations, which single wrappers are thrown off as the train speeds by, and by this means many people get their newspaper daily, whereas they would not get it so promptly and fresh were the mails to be used, and also in many instances the post-offices are several miles from such points;" and that now the railroad agents require him "to put a cent stamp on a receipt for each one of these single wrappers," although he gets "no bill of lading from the railroad company," and only pays the

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railroad company for the freight on the aggregate weight of all the papers sent; and "if these single subscribers must pay 1 cent revenue on each paper they thus receive," he "will, no doubt, be compelled to cut them off entirely from the list."

The law provides as follows:

That but one bill of lading shall be required on bundles or packages of newspapers when enclosed in one general bundle at the time of shipment.

The ruling heretofore made that each bundle having a different destination should have a different bill of lading and be stamped is modified in view of opinions of Senators and Members of Congress that such was not the intention of the law.

Therefore, when the tax of 1 cent is paid on the general bundle, each package in the general bundle which is taken therefrom and delivered at intermediate points does not require a separate receipt and stamp.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. P. A. MCCLAIN, *Collector First District, Philadelphia, Pa.*

(19887.)

Stamp tax—Dray tickets or shipping receipts.

Dray tickets or shipping receipts not surrendered for a stamped bill of lading must be themselves stamped.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 11, 1898.

SIR: Yours of the 23d ultimo was duly received, inclosing a letter to you from Mr. S. T. McLaughlin, general freight agent, Baltimore and Ohio Southwestern Railway Company.

In regard to the ruling of this office that shipping or dray tickets surrendered to a railroad company for a bill of lading do not need to be stamped, the suggestion is made that some railroad companies are evading this stamp tax by reason of the fact that, in some instances, no exchange is made of the dray tickets for a regular bill of lading.

Mr. McLaughlin makes the suggestion whether it would not be better to require the stamp to be affixed to the dray ticket in all cases, and then, when regular bills of lading are issued, to have them bear the statement that they are issued in lieu of a duly stamped dray ticket for the same shipment.

Concerning this matter, I have to say that the ruling that dray tickets which were surrendered for a regular bill of lading need not be stamped is adhered to. If, however, the dray or shipping ticket given by the carrier is the only "evidence of the receipt and forwarding" of such shipment, it is the instrument which must be stamped, and every case of failure of the carrier to stamp either such ticket or regular bill of

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lading issued in lieu thereof, one or the other, incurs the penalty of $50 for each offense.

It is the duty of internal-revenue officers to uncover evasions of this character, and to cause proper action to be taken.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. BETTMANN, *Collector, Cincinnati, Ohio.*

(19965.)

Express business—Local expressages not included in Schedule A.

Tax on bills of lading or receipts for goods accepted for transportation by express and freight companies—Definition of "express business" within the meaning of the law.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 25, 1898.

SIR: Your letter of the 15th ultimo, in behalf of the Expressman's League of Massachusetts, has been received. You make inquiries under twelve different heads in regard to the express business as affected by the provisions of the act of June 13, 1898. You state that these inquiries involve the business of from three to five hundred concerns, transacting a very large amount of business, which is much embarrassed by the doubts arising from some provisions of the act. Your inquiries are answered in the order in which they are made, as follows:

1. You state there is in Boston and vicinity a very large number of persons and firms, most of them calling themselves "expressmen," engaged in the transportation of goods over short lines between Boston and the suburban cities and towns, some by teams and some by rail. That these short local lines are engaged in the business of local delivery of packages at low rates, ranging from 5 to 50 cents on an ordinary package, and you ask if these short local express lines come within the provisions of the act.

In reply, you are informed that the act of June 13, 1898, in its provisions requiring stamped bills of lading to be issued by express and freight companies to shippers of goods accepted for transportation does not apply to individual persons, firms, or local companies delivering packages, parcels, bundles, railway baggage, and the like, solely on call and at special request, in the various localities, but within city limits, adjacent to their own place of business. It is only upon the transactions of an express business conducted upon regular routes and at designated times, upon regular trips and as a business of carriage and transportation from one point or place in the country to another point

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or place, that the requirement of the law to issue to the shipper or consignor from whom any goods are accepted for transportation a bill of lading, manifest, or other evidence of receipt and forwarding for each shipment received and to stamp the same, applies and is imposed.

Under this construction of the law local carrier companies are not subject to taxation for the conveyance of goods within city limits to localities adjacent to their own place of business, and this definition of the application of the law must be the guide generally for persons or firms engaged in making local deliveries of goods to follow in regard to issuing stamped receipts for goods accepted for transportation.

2. You ask if a stamped receipt must be given for *empty packages* (such as milk cans, etc.) on their return to the original consignor, the original agreement of transportation of the filled packages being that the "empties" should be returned without additional charge.

It is upon the shipment that the tax is imposed.. If the shipment includes under its terms the return of the packages, the law is complied with entirely when the original receipt is issued and stamped.

3. You ask if a stamped receipt must be given *each way* when a parcel is taken by an expressman to be *exchanged* for another similar article (for example, a suit of clothes which does not fit the customer and is sent to be exchanged for another size), the expressman making but one charge in one direction.

The ruling as to the tax being imposed on each shipment by itself will answer the question in this case. If an expressman takes a package as a single shipment to be exchanged for another similar parcel which he returns to the shipper, his whole responsibility in the matter being covered in the receipt he gives at the time he takes the first package, only one stamped bill would be required by law.

4. You ask if a stamped receipt must be given for goods which an expressman takes an order to *buy*, buys and pays for with his own money on the spot, and subsequently delivers to the person who gave him the order, adding a small charge sufficient to indemnify him for his trouble, etc.

In this case the requirement to issue a stamped bill of lading would not apply, as the expressman is carrying his own goods for his own purposes, and has not accepted them from any shipper or consignor for transportation.

5. You ask, when an expressman takes an article to be *repaired* and returned (as, for example, a watch taken into Boston to be cleaned), charging but one way, if the requirement of a stamped receipt applies to the return of the article.

The answer to your third question will apply to this case. If the original shipment includes the carriage and transportation of the article for the round trip, and it is so arranged at that time, notwithstanding the fact of the detention of the shipment at a point on the route for

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a short time, say a few days, when it is again taken up and returned to the consignor, who has consigned it to himself at the point of shipment, only one stamped receipt is required. If a receipt is given at the place where the package was detained, it should be merely for return of the goods and not for their transportation back to the shipper, who has already been given a receipt which included the transportation back to him of the package received.

6. You ask, "When *one shipment* of goods by one consignor consists of several parcels, for which in the ordinary course of business, before the revenue act, but one receipt would have been given, does a single receipt cover the entire shipment, it being as between the consignor and the expressman but one shipment?"

In regard to this matter, you must understand that "one shipment" by one "consignor," consisting of several parcels, can be made only to one consignee. In that event only one receipt would be issued; but if several parcels are distributed to different consignees at different destinations, it is plain that to each person to whom a delivery was made a shipment would have been received for carriage and transportation, for which a stamped receipt would be required by the terms of the act. If the law were not to be so construed, you will see readily that a person or firm obtaining many orders through the day for goods to be shipped by express or freight might send several loads of goods to fill all the orders taken during the day and ask for a single bill of lading or receipt for one shipment. Whenever goods are delivered, however, the express or transportation company requires a receipt for the same, and this of itself indicates that a delivery of the goods completes the transaction and that the receipt and forwarding constitutes a shipment. The only exception to this rule is that provided in the case of bundles or packages of newspapers when inclosed in one general bundle, from which at way stations a distribution thereof may be made as the train passes, and for which general bundle but one bill of lading is required.

7. You ask, "When several parcels, constituting a single shipment, are delivered by a single consignor to an expressman, as in the case last above stated, to be carried over his line and delivered by him to a railroad or freight or express transportation company, which is to distribute the parcels among the several consignees on its line, (1) are all the parcels covered by the original receipt given the consignor at the original point of shipment at his warehouse or factory; or, if not, (2) must the second carrier give a single stamped receipt covering all the parcels; or, if not, (3) must the second carrier give a stamped receipt for each parcel?"

The ruling, as given in answer to your question No. 6, will apply generally to this question. It may be stated, however, in addition, that if a local deliverer of packages conveys a shipment to an express or transportation company for transportation, he does not come within

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the provisions of the law, but the express or transportation company does, the local deliverer acting as agent for the person who makes shipment of the goods and taking receipt therefor in his name and under his directions for each separate shipment accepted. If goods are accepted for through transportation by the one who takes them from the shipper or consignor and are carried over his own line only part way, being delivered to an express or transportation company for further transmission, the receipt by the company to whom he delivers the goods for further carriage would not be subject to stamp duties, it being only in acknowledgment of receipt of goods from the company which undertakes through transmission, and not a receipt to the shipper or consignor.

8. You ask, "Does the requirement to give stamped receipts apply to ordinary *teamsters* or *truckmen* taking orders to move any sort of goods from one place to another at any time (as, for example, household furniture, etc.), but not at fixed times or by fixed routes?"

In accordance with the rulings as above given, the law does not apply to this class of business.

9. You ask, "If a large dry-goods house, for example, which advertises to deliver goods free to its customers, contracts with a local teamster or carrier to deliver all its goods at a fixed price per parcel, does the requirement to give stamped receipts apply to such carrier?"

The conveyance of goods from the shipping house to the express or transportation company for shipment does not come within the provisions of the law requiring a stamped bill of lading as above set forth, nor does the local delivery of parcels.

10. You ask if a single delivery to a carrier at one time of a number of parcels, all as one "shipment," is covered by a single receipt.

An answer to this question is obtained from the rulings above given.

11. You state that the act prescribes no *time* when the receipt shall be issued by the carrier to the consignor, and you ask, "If all receipts required by the day's business are properly prepared, stamped, and canceled, ready for the consignor in the course of the day to be delivered as soon thereafter as may be, is not this sufficient compliance with the act?"

In reply you are informed that if it is the practice to issue the receipts from the general office of the transportation company instead of by the drivers who go about and collect goods in a hurry to catch trains, this will evidently be a compliance with the law where it provides that a bill of lading must be issued and stamped for each shipment received.

* * * * * * *

In closing, it is hoped that the functions of local carriers in city and suburban localities, and the operations of an express business regularly conducted upon transportation lines for conveyance of freight and express business, may be so well distinguished between as to make no difficulty in determining whether or not any particular business comes

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within the requirements of the law. Perhaps some words of caution, however, may be necessary in regard to the confines within which the operations of local carriers must be restricted in order to avoid liability to issue a bill of lading or receipt and to stamp the same, in conformity to the law in regard to "express and freight." The distinction between the two classes of express business, so called, will be noticed, first, the one which will accept personal chattels for transportation from town to town, or city to city, undertaking carriage of shipments from one point or place in the country to another point or place, over regular routes and through lines of traffic, is a business ordinarily known in all communities as "the express," and it is to this business, as this office conceives, that the act of June 13, 1898, applies.

Next in order, and doing business under various names, such as "city express," "merchants' dispatch," "parcel delivery company," etc., comes the long list of push carts, single-horse wagons, teamsters, truckmen, and in many instances organized companies, who take up the work of an ordinary porter, but in a more extensive and responsible capacity, and make a business of carrying, on call and at request, minor articles, such as packages, parcels, bundles, or trunks, and also of moving household goods, furniture, machinery, and the like, within the city limits and suburban localities immediately adjacent to the city limits within which their business is located. This business, if strictly confined in its local character, viz, within the municipal limits of the place wherein it is located, does not, as this office holds, come within the provisions of the law and is not subject to the requirement that a stamped bill of lading or receipt shall be issued to the persons from whom the articles accepted for conveyance are taken. The test will be, therefore, that whenever goods are accepted for transportation to another point or place beyond municipal limits, either by one's own or by connecting lines, such act will come within contemplation of the law requiring stamped receipts, and in each case of this kind the law must be complied with, while the operations which are strictly confined within municipal limits are not included in the law.

It may easily happen that a mixed business may be operated; that is to say, that a carrier which does its main business within municipal limits may accept goods for transportation to other points, places, or localities adjacent thereto, but outside of the municipal limits within which its principal office is located. In such cases the transactions involving business of a regular express company will be subject to the requirements of the law and the stamped bill of lading or receipt must be issued, while in all other cases confined within municipal limits no stamped bill of lading or receipt will be required.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. ALBERT E. PILLSBURY, *Boston, Mass.*

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(19970.)

Opinion of the Attorney-General on the question whether the word "goods" includes money.

Where an express company receives money for transportation, it is regarded as "goods" under Schedule A of the war-revenue act of June 13, 1898, and a bill of lading must be issued therefor, and a stamp affixed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 27, 1898.

The appended opinion of the honorable Attorney-General is hereby promulgated for the information and guidance of all officers of the Internal Revenue Service.

N. B. SCOTT, *Commissioner.*

DEPARTMENT OF JUSTICE,
Washington D. C., August 17, 1898.

SIR: In response to your request, under date of July 25, ultimo, for my opinion as to whether or not the word "goods," as used in the war-revenue act of June 13, 1898, includes money, I have the honor to advise you as follows:

The question arises under the following paragraph contained in Schedule A of said act:

"*Express and freight:* It shall be the duty of every railroad or steamboat company, carrier, express company, or corporation or person whose occupation is to act as such, to issue to the shipper or consignor, or his agent, or person from whom any goods are accepted for transportation, a bill of lading, manifest, or other evidence of receipt and forwarding for each shipment received for carriage and transportation, whether in bulk or in boxes, bales, packages, bundles, or not so inclosed or included; and there shall be duly attached and canceled, as is in this Act provided, to each of said bills of lading, manifest, or other memorandum, and to each duplicate thereof, a stamp of the value of one cent:"

The word "goods," and the terms "goods and chattels," and "goods, wares and merchandise," have no invariable fixed meaning in legal construction. Their interpretation varies according to the circumstances in which they are used. The word "goods" sometimes has a very broad meaning, comprehending everything that would be included in the term personal property. In some senses it is very restricted, describing merely, for instance, a stock of merchandise in a store. When used in the latter sense it would not include movable fixtures, nor the safe, nor the scales, nor the horses and wagons and other paraphernalia used for carrying on the business. The use of the term varies in comprehensiveness between these two extremes. Undoubtedly, in many constructions, the word "goods" includes money. Under a common-law execution directing the sheriff to make of the goods and chattels of the defendant a certain sum, the sheriff can properly levy upon and take money of the defendant. (Turner *v.* Fendall, 1 Cranch, 117.)

In Sewall *v.* Allen (6 Wendell, 335, 355), it is said "there can be no doubt that bank bills, under certain circumstances, and for certain pur-

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poses, are considered and treated as goods. They are subject to execution, and also pass as goods to executors and administrators and to the assignees of bankrupts." In the same case it was said by Chancellor Walworth:

"For all civil purposes, and especially in the United States, where they constitute (1830) nearly the whole circulating medium of the country, bank bills are considered and treated as money; and, therefore, come within the general term 'goods.'"

The rule of construction to be followed in these cases is nowhere better stated than in the same opinion of Chancellor Walworth above referred to. He says:

"Where words are sometimes used in different senses their meaning in a statute must always be construed in reference to the subject-matter of the enactment." (Sewall *v.* Allen, 6 Wendell, 335.)

Applying this rule of construction to the language of the war-revenue act above quoted, it is not difficult to determine the subject-matter of the enactment. The subject-matter is comprised in the heading of the paragraph quoted, namely, "Express and freight."

It was the manifest purpose of Congress to impose a stamp tax upon the shipment and transportation of such material substances as, under commercial usage at the present time, are the subjects of transportation by railroad and steamboat companies, express companies, and corporations or persons whose occupation is to act as such. There is, in practice and principle, no difference whatever, commercially and legally, between the transportation by a common carrier of money and the transportation of ordinary merchandise. It is the general custom at this time for express companies to accept and transport for pay, as common carriers, packages containing "goods" in the more liberal acceptation of the term, including coin, bank bills, stock certificates, commercial paper, and other choses in action. No reason is perceived why Congress should have intended to apply a stamp tax to the transportation of merchandise in the ordinary acceptation of the term, and to have allowed the express companies to transport money or evidences of indebtedness, or other papers or documents not falling within the restricted meaning of the term "goods," without the payment of the tax. The principle on which the tax is levied applies equally and generally to all packages, no matter what they contain, accepted by the companies for transportation. It seems clear that Congress meant to impose the tax upon all things received and transported as express or freight matter, and the word "goods" was used to comprehend and include everything of that description. When money is sent by express, it is carried in bulk, in bags or packages. Its transportation does not differ from the method followed in transporting other valuable packages.

In the case of the schooner *Elizabeth and Jane* (2 Mason, C. C., 407), it was held by Mr. Justice Story that silver dollars were "goods, wares, and merchandise" within the meaning of the revenue act of March 3, 1799, chapter 128, for the landing of which a permit from the custom-house was necessary. In that case it is said:

"It can not be doubted that money, and of course foreign coin, falls within the description of 'goods' at common law; and coin, dollars, and bullion are considered in commercial transactions as 'goods and merchandise,' and may be insured as such in a policy of insurance. In point of fact, too, dollars are often imported as 'wares and merchandise;' that is to say, as property—not to pass merely as currency, but to be bought and sold as a marketable commodity at varying prices.

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Unless, therefore, there is something in the context of the statute from which it can be inferred that the legislature did not use the words in their ordinary import, I think I am bound to interpret them in that sense."

Both upon principle and the authority of the decided cases, I am of the opinion, therefore, that the term "goods" used in the act above quoted includes money.

Respectfully, JOHN W. GRIGGS, *Attorney-General.*

The SECRETARY OF THE TREASURY.

(19996.)

Stamp tax—Receipts of express companies.

Receipts, bills of lading, or manifests issued by express companies in cases of shipment of money and securities of the United States Government under contract for transportation of same are subject to stamp tax under act of 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 31, 1898.

The appended opinion of the honorable Attorney-General is hereby promulgated for the information and guidance of all officers of the Internal Revenue Service.

N. B. SCOTT, *Commissioner.*

DEPARTMENT OF JUSTICE,
Washington, D. C., August 26, 1898.

SIR: By contract entered into March 1, 1889, between the United States, by the Secretary of the Treasury, and the United States Express Company, the United States agreed to employ the said company exclusively as its transportation agent for the transportation of all moneys and securities belonging to the United States within certain territorial limits in the contract specified. The contract fixes the rate of compensation to be paid to the company for the transportation of each kind of money, coin, paper currency, bonds, certificates, canceled securities, and mixed packages of currency and coin. The contract is terminable on six months' notice in writing by either party to the other, and is still in force.

You submit for my decision the question whether, under the war-revenue act of June 13, 1898, the United States Express Company is required, when receiving money and securities for transportation for the Government under this contract, to issue to the consignor a bill of lading, manifest, or other receipt with a 1-cent stamp duly attached and canceled.

It is contended by counsel for the express company that moneys and securities transported by it under this contract are exempt from the provisions of the act in question, for two reasons:

First. Because the act applies in terms to "goods," and moneys and public securities such as are described in the contract are not "goods" within the meaning of the act. I have already, in my opinion of August 17, 1898,[1] decided that the word "goods" used in this connection includes money, securities, and other choses in action.

[1] See decision 19970, p. 39.

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Second. It is claimed in behalf of the express company that, in view of the fact that the amount of its compensation for carrying each shipment had been determined and agreed upon in advance, the imposition by the Government through this act of Congress of a stamp tax upon each shipment is in effect a reduction of the compensation reserved to the company and an impairment to that extent of the obligation of the contract, amounting to a violation of the contractual obligation of the Government, and in fact an arbitrary and oppressive act under the guise of taxation.

When a government enters into such an agreement it is not acting in its capacity of a sovereign, but it comes down to the level of an ordinary individual. Its contracts have the same meaning as that of similar contracts between private persons. (Murray *v.* Charleston, 96 U. S., 432, 445.)

The provision of the Federal Constitution which forbids the passage of any law impairing the obligation of contracts applies only to the States; there is no such prohibition expressly made in relation to acts of Congress. It is unnecessary to discuss the question whether Congress has unrestricted power to do what the States can not do in the impairment of contract obligations. It is probable it would be held that in some instances and for some purposes it can. Such an instance might be the enactment of a bankrupt law, which necessarily implies the impairment and even the entire discharge of contract obligations. (Miller on Constitution, 529.)

It is not improbable, however, that any act of Congress which should provide for the repudiation of any substantial part of a valid contract would be obnoxious to those other provisions of the Federal Constitution which are intended to protect the citizen and his property against arbitrary seizure and confiscation.

But in my judgment there is no just ground to consider that the imposition of the stamp tax upon the United States Express Company by the act mentioned either impairs the obligation of its contract or takes private property for public use without compensation or without due process of law. While the imposition by way of stamp duty is commonly called a tax, nevertheless, considered in the light of the constitutional provision which regulates the levy of such taxes, it is not strictly a tax, but an impost.

The Constitution declares that "the Congress shall have power to lay and collect taxes, duties, imposts, and excises; * * * but all duties, imposts, and excises shall be uniform throughout the United States." (Art. I, sec. 8.)

This constitutional quality of uniformity pertains to this particular piece of legislation. The law provides that "it shall be the duty of *every* railroad or steamboat company, carrier, express company, or corporation or person whose occupation is to act as such, to issue to the shipper or consignor, or his agent, or person from whom any goods are accepted for transportation, a bill of lading, manifest, or other evidence of receipt and forwarding for *each* shipment received for carriage and transportation; and there shall be duly attached and canceled, as is in this act provided, to *each* of said bills of lading, manifests, or other memorandum, and to *each* duplicate thereof, a stamp of the value of one cent."

It satisfies the constitutional requirement of uniformity when a particular impost is uniform upon all subjects of the same kind or class. Such is the character of this particular levy. It extends to all cases

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where goods are received for transportation by express companies, no matter whether the consignor be a municipality, a State, or the Federal Government itself, and without regard to whether such goods are received and transported under a continuing contract previously entered into, or under the ordinary obligation of a common carrier to take and transport the goods of all who apply and tender reasonable compensation.

No difference is perceived in the effect of this law in its operation upon the United States Express Company where it transports goods for the Government under this contract and those instances wherein this or other companies are under similar contract with private persons at fixed rates established prior to the passage of the act and continuing during its operation. If the obligation of the contract is impaired in one case it is in the other. It would terminate the power of the Government to levy taxes and imposts if individuals were allowed to set up the plea that thereby their contracts were rendered less profitable than before, or even that their profits were more than balanced by the governmental exactions. The payment of taxes in any form is not supposed to contribute to the profits of the subject, but to swell the funds of the government. Taxes may be ruinous, but they, for that reason, are not unlawful. The power to tax is the power to destroy. (Marshall, Ch. J., McCulloch *v.* Maryland, 4 Wheat., 431.)

Counsel for the express company does not contend, as I understand his brief, that if this contract were between the company and a private firm or person the impost laid by the Government would afford any ground of complaint against the validity of the tax or the continuing force of the contract as between the parties. The act would be valid and would have to be complied with. But he urges that because in fact the impost is laid by the Government, acting through its legislative department, upon business done under a contract to which the Government, in its capacity as a proprietor, is a party, therefore the Government is exercising an arbitrary and unjust power in its own favor to the injury of the other party to the contract.

No doubt an act of Congress which should single out any individual with whom it had contractual relations and impose upon him or upon his especial business new and peculiar exactions by way of tax or impost whereby the value of his contract was impaired and the compensation reserved to him under the contract to be paid by the Government was either directly or indirectly reduced to a material degree, would violate fundamental principles of justice. It can not be supposed that Congress would pass such an act. This case is not of that kind. The impost is not peculiar to this company, nor to its business. It is general, uniform, and has no exceptions. It applies to all cases where previous contracts exist between the company and its shippers. It does not assume to, nor does it in fact, violate or impair a single condition of the contract. It does not authorize the Treasury Department to withhold the sums due under the contract to meet the dues to the Government, as was the case in Murray *v.* Charleston (96 U. S., 432). The full amount of the agreed compensation will be paid to the company by the Government, as it would have been done had the war-revenue act never been passed. The act merely imposes upon the company a duty as to the issue of a receipt and the cancellation of a stamp, which are the methods for securing the payment of the impost intended to be laid for the high purpose of sustaining the Government in time of war.

No case is cited, nor do I know of any principle of decision, which is in the remotest degree authority for the position that a government

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having the power to tax can not exercise it upon ordinary subjects of taxation, either property or business, which are under contractual relations to the Government. Could it be contended that a government could not tax a building which it occupied as a tenant because the payment of the tax would lessen the owner's net income from the rent? In levying an income tax, would it be unjust or unconstitutional to tax the income derived by a citizen from a contract to erect a public building, or dredge a river, or transport troops? The immediate answer would be in the negative. And yet every objection urged against this exaction of a stamp impost upon this particular business of the United States Express Company could be with equal applicability urged against the Government in each case I have suggested.

So long as the contractor is taxed uniformly with all others in the same line of business, upon the same transactions, and the tax is levied for appropriate objects of taxation, he can not complain merely because his compensation or profits under his contract with the Government are thereby indirectly reduced. The contract is not affected. The business of the contractor is taxed, and it is not material whether that business is with private persons or with the taxing government itself.

As bearing upon the principles herein enunciated, I refer to Murray *v.* Charleston (96 U. S., 432), Gaslight Company *v.* Taxing District (109 U. S., 398), Railroad Company *v.* New Orleans (143 U. S., 192).

You are, therefore, advised that the United States Express Company is not, by reason of its contract, exempt from the requirements of the war-revenue act in the transportation of money, securities, etc., for the Government.

Respectfully, JOHN W. GRIGGS, *Attorney-General.*

The SECRETARY OF THE TREASURY.

(20169.)

Stamp tax—Excess-baggage receipts.

The Attorney-General holds that the law which makes it the duty of the carrier to issue a bill of lading or a receipt to a person from whom any goods are accepted for transportation, and to stamp the same, does not apply to baggage received by railroad companies and carried upon the same train with the owner, whether such baggage be the quantity allowed ordinarily by the rules of the railroad company or is in excess of such amount.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 12, 1898.

SIR: You are informed that the honorable Attorney-General has rendered a decision in regard to the liability to stamp tax, under Schedule A of the war-revenue act, of excess baggage receipts issued by railroad companies to passengers for excess weight of baggage. He holds that the law which makes it the duty of the carrier to issue a bill of lading or a receipt to a person from whom any goods are accepted for transportation, and to stamp the same, does not apply to baggage received by railroad companies and carried upon the same train with the owner, who is a passenger, whether such baggage be the quantity allowed ordinarily by the rules of the railroad company or is in excess such amount.

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A copy of the opinion of the Attorney-General is appended.

You will please suspend any further proceedings against the Baltimore and Ohio Railroad on account of failure to stamp such receipts, and make no more collections on this account. Taxes which have been paid erroneously, according to this decision, can be refunded upon proper application being made therefor.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. F. PARLETT, *Collector Internal Revenue, Baltimore, Md.*

[Opinion of Attorney-General.]

DEPARTMENT OF JUSTICE,
Washington, D. C., October 7, 1898.

The SECRETARY OF THE TREASURY.

SIR: I have the honor to acknowledge yours of the 3d instant, transmitting a copy of a letter from the Commissioner of Internal Revenue, and also inclosing a form of an excess-baggage receipt issued by railroad companies to passengers for excess weight of baggage, and you ask my opinion as to whether such receipt is subject to stamp tax under Schedule A of the war-revenue act.

I do not think that baggage received by a railroad company and carried upon the same train with the owner, who is a passenger, in the usual way in this country, can be included under the head of express and freight as contemplated in the war-revenue act, whether such baggage be the quantity allowed ordinarily by the rules of the railroad company or is in excess of such amount.

The consideration to the carrier for the transportation of baggage is the fact that the owner is a passenger, and it is a part of the consideration of the ticket which the passenger holds that his baggage shall be carried along with him. If, however, a passenger has more baggage than is allowed by the rules on account of an ordinary ticket, it does not change the character of the baggage nor the nature of the contract with the passenger for the carrier to require a greater amount of fare. If we were to hold that the receipt given for excessive weight of baggage is liable to the stamp upon the ground that goods are accepted for transportation, we should also have to hold that the check given for any baggage should have the stamp, for the law does not make any difference whether the goods accepted for transportation are in large or small quantities. The transportation of baggage is a privilege extended to a passenger aboard the train, in consideration of the fact that the passenger himself is entitled to be carried. So, really, it is the fact that the passenger himself, and not his baggage, is accepted by the carrier for transportation that forms the basis of the contract.

I, therefore, advise you that a check such as you inclose, given to denote that the carrier is conveying for the passenger an amount of baggage in excess of that allowed by the rules, in consideration of an ordinary ticket, and for which the passenger pays an amount greater than the usual fare, is not a bill of lading or manifest for goods accepted for transportation as contemplated under the head of "Express and freight" in the war-revenue act.

Very respectfully, JAS. E. BOYD,
Assistant Attorney-General.

Approved:
JOHN W. GRIGGS, *Attorney-General.*

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(20194.)

Stamp tax—Bills of lading or receipts.

Bills of lading or receipts from transportation companies may include more than one shipment therein, provided that a stamp or stamps amounting in value to 1 cent for each shipment shall be affixed thereto and canceled.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 13, 1898.

SIR: Messrs. Eichold Bros. & Weiss, wholesale liquor dealers, of Mobile, in your State, have addressed this office, under date of the 29th ultimo, in regard to their use of a receipt in shipping jugs of liquors by the various steamboats plying the rivers of the State.

The form of receipt which they inclose contains on a small sheet space for the address of eleven consignees, to whom as many shipments may be made, all to be receipted for on a single sheet. They state that previous to the passage and enforcement of the war-revenue law they could ship from one to ten jugs on each of these receipts, but that at present the steamboats compel them to make out a separate receipt for each jug. They ask if it would be contrary to the law if they should again ship any number of jugs on the receipt, provided they affix the requisite number of stamps to it—1 cent for each jug, the present method being a serious annoyance and involving unnecessary labor.

You will please inform these gentlemen that it is the duty of the steamboat company to issue to them a bill of lading or receipt for each shipment received for carriage and transportation, and to affix a stamp thereon to the value of 1 cent. If, for purposes of their convenience when shipping large numbers of packages at the same time, they desire to obtain receipts for several shipments upon the same sheet, the same to be stamped to cover in value the amount of 1 cent for each shipment made at the time, there is no objection to this method of issuing receipts for shipments received for carriage and transportation, and such a practice would be considered a compliance with the provisions of Schedule A, act of June 13, 1898, by the steamboat companies. By this method, when five shipments are made at one time, a 5-cent stamp can be used to cover the tax on the receipt for the five shipments, and when ten shipments are made, a 10-cent stamp can be used, etc., it being understood that each sheet of receipts shall bear internal-revenue stamps, duly canceled, equal in face value to 1 cent for each and every receipt entered thereon.

It is evident to this office that such a method of issuing and stamping receipts will be of material advantage to express and freight companies in the conduct of their business, and it is assumed that such companies will be careful not to violate the law by any omission to stamp such receipts as they are made and issued.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JULIAN H. BINGHAM,
Collector Internal Revenue, Birmingham, Ala.

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(20240.)

Stamp tax—Express matter.

Exemption from tax of express matter carried for railroad company free under contract with express company.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 25, 1898.

SIR: Referring to office letter of the 18th instant, relative to the free carriage of the merchandise and money of the New York, New Haven and Hartford Railroad by the Adams Express Company under contract, I have to inform you that the Attorney-General has rendered an opinion on the subject, referring especially to the Pennsylvania Railway, copy of which I inclose for your information and guidance.

Respectfully, yours,

G. W. WILSON, *Acting Commissioner.*

Mr. JAMES D. GILL, *Collector Internal Revenue, Boston, Mass.*

[Opinion of Attorney-General.]

DEPARTMENT OF JUSTICE,
Washington, D. C., October 21, 1898.

The SECRETARY OF THE TREASURY.

SIR: I have the honor to acknowledge receipt of yours of the 18th instant, inclosing copy of letter of the Commissioner of Internal Revenue, and also a copy of a letter addressed to the Commissioner of Internal Revenue by the general solicitor of the Pennsylvania Railroad Company, in which you request my opinion as to whether goods, such as money and merchandise, which are carried by the Adams Express Company free for the Pennsylvania Railroad Company, under a contract between the two companies, are included under the head of "Express and freight" in the war-revenue act, and whether the manifest or other paper evidencing the transportation thereof is subject to the stamp provided for in said act.

The facts relating to this question, as submitted, are as follows:

(1) By agreement, dated November 25, 1896, between the Pennsylvania Railroad Company and the Adams Express Company, by virtue whereof the latter conducts its business on and over the lines of railroad operated by the former and the lines of railroad or other companies affiliated with said railroad company, it is, *inter alia*, stipulated as follows: That the express company shall "carry for the railroad company all money and other valuable packages pertaining to the business of the railroad company over the lines of the latter free of charge, the railroad company assuming all risk of loss or injury thereto of property so carried except through theft or dishonesty, carelessness or inefficiency, of the employees of the express company; and it being understood that, for this purpose, the lines covered by this agreement, and those covered by the agreements of even date herewith with the other companies affiliated with the railroad company, shall be considered as forming one system, such money and valuable packages

shall be carried free of charge over such lines for any of the companies whose lines form part of that system."

(2) That the money packages and other valuable packages covered by the said agreement and by its terms to be carried free of charge are *exclusively* the *property* and appertain wholly to the business of the railroad companies, and the transportation thereof is incidental to and absolutely necessary for the efficient management and operation of the railroad companies and the proper administration of their business.

(3) That the carriage thereof is made in the cars of the railroad companies, which are hauled by their own motive power, and frequently in charge of one person who is the agent of both the express and railroad companies; and, but for the existence of the said contract, would be carried in like manner, save only that the exclusive employee of the railroad company would have custody thereof during such carriage.

Under the head of "Express and freight," which is a part of Schedule A of the war-revenue act, it is made the duty of every railroad or steamboat company, carrier, express company, or corporation or person whose occupation it is to act as such, to issue to the shipper or consignor, or his agent, or person from whom any goods are accepted for transportation, a bill of lading, manifest, or other evidence of receipt and forwarding for each shipment received for carriage and transportation, and upon such bill of lading, manifest, etc., is required a stamp of the value of 1 cent.

The term "accepted for transportation," as used in the statute, evidently means goods received from a shipper or consignor other than the carrier itself, for one can not be said to accept goods from himself, and the term must have been intended to apply to goods received for transportation in the usual manner by common carriers.

The goods and moneys of the railroad company, by virtue of the contract above set forth, are carried in its own cars, on its own railway, in trains moved by its own locomotives operated by its own servants. The employees of the express company, it is true, handle the goods and moneys, but, under the contract, they do so in a sense as the agents of the railroad company. The relation of shipper and carrier, as usually applied, does not and can not, under the circumstances, be said to exist between the two companies.

In 21 Opin., 394, will be found an opinion of the Attorney-General in which the principle involved is somewhat analogous. The question there was as to the right of railroad companies to carry letters pertaining to their own business, and, while it is held (under sections 3985 and 2993, Rev. Stats., which are revenue laws) that the public interest requires that the Government should have a monopoly of the business of carrying letters, the law is construed to authorize letters and packets relating to the business of the railroad on which they are carried to be carried by such railroad outside of the mails and not in Government stamped envelopes.

I advise you, therefore, upon the facts presented in the case submitted by you, that no bill of lading or manifest is required under the provisions of the war-revenue act, and, if any such is given, it is not liable to the stamp provided in said act.

Respectfully, yours, JAMES E. BOYD,
Assistant Attorney-General.

Approved:
JOHN K. RICHARDS, *Acting Attorney-General.*

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BONDS.

(*See also* DECISIONS 19605, p. 143; 19742, p. 228; 19800, p. 95; 20226, p. 233.)

(19609.)

Stamp tax—Warehousing bonds.

Warehousing bonds taxable under Schedule A, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 30, 1898.

SIR: In reply to your letter of the 25th instant, stating that the "C. Dodsworth Distilling Company insist that warehousing bonds given by them to the Internal-Revenue Department are not taxable under the war-revenue act," you are hereby advised, and you will please so inform them, that these bonds are subject to stamp tax under the tenth subdivision of Schedule A of the act of June 13, 1898, referring to "all other bonds of any description, except such as may be required in legal proceedings."

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. BETTMANN, *Collector First District, Cincinnati, Ohio.*

(19686.)

Stamp tax—Bonds of municipal officers.

Bonds of municipal officers require to be stamped under act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 13, 1898.

SIR: In reply to your letter of the 7th instant, inclosing letter addressed to you by Mr. C. V. Meredith, city attorney of Richmond, Va., you are informed that bonds of municipal officers are required to be stamped under the provisions of the act of June 13, 1898.

Respectfully yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES B. BRADY, *Collector Second District, Richmond, Va.*

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(19707.)

Stamp tax—Bonds of brewers, etc.

Instructions in regard to stamping bonds of brewers, manufacturers of tobacco, manufacturers of cigars, distillers, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 18, 1898.

SIR: Your letter of the 7th instant, inquiring whether bonds of brewers, manufacturers of tobacco, manufacturers of cigars, distiller's annual, distiller's warehousing, transportation and export bonds are required to be stamped under the provisions of the act of June 13, 1898, has been received. In reply, you are informed that they are required to be stamped with a 50-cent stamp under Schedule A when individuals are surety. When a guaranty company is surety, the bond should be stamped in addition with a stamp denoting one-half of 1 cent on each dollar or fractional part thereof paid by the principal obligor on the bond as premium. Where these bonds are required by law or regulation of this office to be made in duplicate or triplicate, each must be stamped.

Copies of distiller's bonds forwarded to this office for office use need not be stamped.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

MR. CHARLES E. SAPP, *Collector Fifth District, Louisville, Ky.*

(19738.)

Stamp tax—Bonds given by guaranty companies.

Bonds issued by guaranty companies in Canada guarantying the fidelity of employees, individuals, or corporations in the United States.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 20, 1898.

SIR: Your letter of the 8th instant in regard to what amount of internal-revenue stamps it is necessary to affix to bonds issued by guaranty companies guarantying the fidelity of employees has been received.

The stamp necessary on such a bond is 50 cents, also one-half of 1 cent on each dollar of premium charged or fractional part thereof.

As to whether the revenue law applies to bonds issued by guaranty companies in Canada guarantying the fidelity of employees of individuals or corporations in the United States, you are informed that if the bond is executed and delivered in Canada, the United States laws will not apply, but if it is not a valid policy until countersigned or delivered

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by the agent of the company in the United States it should be stamped in accordance with the provisions of the act of June 13, 1898.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. GEO. G. STREET,
General Manager Great Central Route Blue Line, Rochester, N. Y.

(19845.)

Stamp tax—Renewal of bonds.

Tax on renewal of bonds of fidelity companies taking effect on or after July 1, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 9, 1898.

SIR: Mr. Howard N. Baker, postmaster at Buffalo, N. Y., incloses to this office a renewal of a bond of one of the employees of his office, together with a letter from the agent of the American Surety Company, and asks to be informed whether such renewals are subject to the stamp tax.

It appears that the bonds of a number of the employees of the Buffalo post-office expired on or after July 1, 1898, and the American Surety Company, the guarantying company, under date of June 17, 1898, issued renewals thereof, and caused them to be delivered at the post-office prior to July 1, 1898. As the renewals did not go into effect until July 1, 1898, I am of the opinion that they require stamps as bonds, notwithstanding the fact that they were dated and delivered prior to that date. The stamp necessary on such a bond is 50 cents, also one-half of 1 per cent on each dollar of premium charged or fractional part thereof.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. V. FLECKENSTEIN,
Collector Twenty-eighth District, Rochester, N. Y.

(20156.)

Stamp tax—Issue of bonds.

When a bond is said to be issued—Whenever a corporation issues a bond, and there accrues to the corporation a benefit or consideration for issuing the same, the bond is subject to taxation.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 6, 1898.

SIR: This office is in receipt of a letter, under date of September 16, 1898, from Winslow, Lanier & Co., bankers, New York City. Their letter is written with reference to two letters from this office, one under date of September 13 and the other under date of August 5, the former written to these gentlemen and the latter written to Mr. Robert W.

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De Forest, general counsel for the Central Railroad of New Jersey. The question under discussion in these letters was the issue of bonds under Schedule A, act of June 13, 1898.

The decision reached by this office on the questions presented is this: The law does not provide for the transfer or assignment of bonds (the kind of bonds referred to being bonds evidencing the corporation's indebtedness); it only provides for the issuing of these instruments, and on each issue there is a taxation imposed of 5 cents on each $100 of face value or fraction thereof.

The question to be determined is, What is an issue under the law which would subject the bond to this taxation?

This office holds that whenever a corporation issues a bond, and there accrues to the corporation a benefit or consideration for issuing the same, the bond is subject to taxation. This rule will, therefore, exempt from taxation a registered bond sent in by A for cancellation, with directions to issue in its stead a bond to B and register it in B's name. This ruling would also exempt from taxation the issuing of a registered bond in lieu of a coupon bond, both being issued by the same corporation.

After the corporation has placed upon the market all its bonds, and buys in, say, ten thousand dollars' worth of them, it has again acquired title to the bonds. Should they issue these bonds again, this office would consider that they receive a consideration or benefit by issuing them, and rules that on their issuance there would be imposed a tax of 5 cents on each $100 of face value. So, therefore, when a corporation has passed title to its bond to a person or persons, and this person or persons desires them transferred to another person, this transfer is not to be considered as an issue subjecting the issued bond to taxation. Where the title to the bond issued is in the company issuing it, this office considers that it receives a benefit or consideration on the issuance of the bond, and it is subject to taxation. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

BOWLING ALLEYS.

(*See also* BILLIARDS, ETC.)

(19610.)

Special tax—Bowling alleys and billiard rooms.

Special-tax stamp to be issued for each bowling alley, pool, or billiard table.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 30, 1898.

SIR: In reply to your letter of inquiry of the 22d instant, you are hereby advised that a separate special-tax stamp is to be issued for each

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bowling alley, pool or billiard table. One stamp will not be made to answer for several tables, even though they are contained in a single room and operated by one person or firm (as you state).

Respectfully yours, N. B. SCOTT, *Commissioner.*

Mr. J. E. HOUTZ, *Collector Internal Revenue, Omaha, Nebr.*

(19890.)

Special tax—Bowling alley.

No special tax required on bowling alley used only one day in each year at Sunday school picnic.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 13, 1898.

SIR: Your letter of the 8th instant has been received, inclosing a letter from Mr. Aug. Luhrsen, secretary of the German Congregation at Buckley, Ill., inquiring whether a bowling alley used only for one day in each year, upon the occasion of the annual Sunday-school picnic, the proceeds being devoted to church and Sunday-school purposes, is liable to special tax.

In the opinion of this office, the bowling alley thus set up and used is not one that is open to the public within the meaning and intent of paragraph 9 of section 2 of the act of June 13, 1898, and, therefore, this church congregation is not required to pay a special tax thereon.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. RICHARD YATES, *Collector Eighth District, Springfield, Ill.*

(20021.)

Special tax—Bowling alleys.

Bowling alleys at a college used exclusively by students, and occasionally some invited friends, are not subject to special tax under section 2, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 7, 1898.

SIR: In reply to your letter of the 1st instant, stating that in the gymnasium building of the Centre College there are three bowling alleys, and that this gymnasium is used exclusively by the students of the college, except that as a mere matter of courtesy some five or six gentlemen of Danville are allowed by the professor of athletics the privilege of bowling, free of charge, one or two nights in the week, at a time when the place is closed to the students, you are hereby advised

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that special tax is not required to be paid for these bowling alleys under the ninth paragraph of section 2 of the act of June 13, 1898.

In the opinion of this office, these bowling alleys, used as you state, are not "open to the public" within the meaning of that paragraph.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. J. W. YERKES, *Collector Eighth District, Danville, Ky.*

(20263.)

Special tax—Bowling alleys.

The ninth paragraph of section 2 of the act of June 13, 1898, imposing special tax on proprietors of bowling alleys, requires the special tax to be paid for "each alley;" and it is held that where there are distinct and separate tracks on which separate games of bowling can be played at the same time each of these is a separate alley, for which the special tax of $5 must be paid.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 28, 1898.

SIR: In reply to a letter addressed to this office on the 5th instant by Mr. W. P. Brown, of Asheville, * * * you will please inform him that under the ninth paragraph of section 2 of the act of June 13, 1898, it is not the covered place or room in which "bowls are thrown" for which special tax is required to be paid, but "each alley;" and it is held by this office that where there are two distinct and separate tracks on which two games of bowling can be played at the same time, each of these is a separate bowling alley, and a special tax of $5 must be paid for each of them.

Mr. Brown's contention (in such a case) that it takes two tracks to constitute a complete alley is not accepted here as a correct construction of the statute.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. H. S. HARKINS, *Collector Fifth District, Asheville, N. C.*

(20313.)

Special tax—Pool table; bowling alley.

A special-tax stamp taken out by a person for a pool table can not, upon his dismantling the pool table, be made to answer for a bowling alley.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 10, 1898.

SIR: Your letter of the 5th instant has been received, concerning a retail liquor dealer who has paid special tax as proprietor of a pool

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table, but now "dismantles said table and puts in a bowling alley in place of it," and desires to know whether the "tax stamp issued for the pool table, now dismantled, will cover the bowling alley made."

You will please inform him that it will not. Where special tax has been paid for a pool table, the stamp issued therefor must specify that it is for a pool table, and there is no warrant of law for changing any internal revenue stamp in order to make it answer for something else than that for which it was issued.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. E. COYNE, *Collector First District, Chicago, Ill.*

BROKERS.

(*See also* COMMERCIAL BROKERS; and DECISIONS 19701, p. 226; 19742, p. 228.)

(19562.)

Special tax—Mining-stock brokers.

Certificates of stock originally issued on and after July 1, 1898, to be stamped, also transfer of the certificates of stock.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 23, 1898.

SIR: In reply to the several questions submitted in your letter of the 14th instant, addressed to Senator Teller (which he has referred to this office), you are hereby advised as follows:

1. Mining-stock brokers, and also "persons doing a purely speculative business in mining stocks strictly on their own account, doing no commission business whatever," as you state, are, in the opinion of this office, subject to the tax of $50 imposed by section 2, subdivision 2, of the act of June 13, 1898, if, as it is understood, they are engaged in negotiating purchases or sales of stock "for themselves."

2. Mining companies which, as you state, are "capitalized at from one to two and a half and three million shares, of a par value of one dollar each and whose stock is selling at from fifty cents to two and three dollars per thousand shares," are required to affix and cancel a 5-cent stamp to every certificate of this stock originally issued on or after July 1, 1898, even though its face value is but one dollar.

3. On every transfer of a certificate of stock a broker delivering the certificate should affix thereto and cancel the requisite stamp, in accordance with the provisions of Schedule A of the act of June 13, 1898.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. K. MACDERMID, *Colorado Springs, Colo.*

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(19567.)

Special tax—Mining exchange.

No special tax as brokers on members of mining exchange not transacting any business in negotiating purchases or sales.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 24, 1898.

Collector HOWBERT, *Denver, Colo.:*

Members of mining exchange not transacting any business in negotiating purchases or sales are not required to pay special tax as brokers.

N. B. SCOTT, *Commissioner.*

(19692.)

Special tax—Brokers.

Mortgages—Deeds—Receipts—Liability of persons or firms engaged in buying and selling for themselves as brokers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 14, 1898.

SIR: I reply as follows to the series of questions propounded in your letters of the 4th instant:

1. A mortgage for a less amount than $1,000 does not require a stamp under Schedule A of the act of June 13, 1898.

2. A deed for property the actual value of which is less than $100 does not require a stamp under this act.

3. A receipt issued by a savings bank, such as that which accompanies your letter, containing no words constituting an order for the payment of money, does not require the 2-cent stamp.

4. Persons or firms who are engaged in buying and selling notes for themselves are liable as brokers for the special tax of $50 under the second paragraph of section 2 of this act.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. J. W. PATTERSON, *Collector Third District, Dubuque, Iowa.*

(19755.)

Special tax—Brokers.

No person or firm liable to special tax for simply buying or selling real estate on commission.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 23, 1898.

SIR: A letter addressed to this office on the 14th instant by Mr. W. E. Davis, of Galesburg, Ill., * * * asks as to his liability under

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the new revenue law in buying or selling real estate; also whether he must first obtain a broker's special-tax stamp, if a party is desirous of borrowing money on a mortgage of his property, and applies to him for same and he loans it to him or secures it for him from another party; or if he negotiates the sale of a mortgage on real estate for the owner, or if he loans his own money either on personal or mortgage notes. He further asks, can any person, not having the license, buy notes or loan money for themselves or others without liability under paragraph 2, section 2 of the act of June 13, 1898, which recites that—

Brokers shall pay fifty dollars. Every person, firm, or company, whose business it is to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities, for themselves or others, shall be regarded as a broker: *Provided*, That any person having paid the special tax as a banker shall not be required to pay the special tax as a broker.

In answer to his first question, you will please inform him that there is no provision in the act under which special tax can be held to be imposed on real estate agents, or on any person or firm, for simply buying or selling real estate on commission, either for themselves or for others.

As to his other questions, my reply is that the law referred to is certainly aimed at a class of men known generally in the community as brokers, who (whether this is their sole occupation or is merely business done by them in connection with their other business) negotiate purchases or sales of stocks, bonds, notes, etc., either for themselves or for others.

A fair construction of the law does not make any man a broker, necessarily, who invests his surplus earnings in stocks, bonds, notes, etc., but does not negotiate purchases or sales thereof.

A man is a broker, under this act, who negotiates purchases or sales of stocks, bonds, notes, etc., in the course of business, and this applies to real estate agents, insurance agents, attorneys, or any persons or firms who, in connection with their profession or occupation, make it a regular part of their business to negotiate purchases of stocks, bonds, notes, etc., either for themselves or others.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. AQUILLA J. DAUGHERTY, *Collector Fifth District, Peoria, Ill.*

(19757.)

Special tax—Brokers.

A person whose practice it is to buy notes for himself and others (even though this is in addition to his regular business) is required to pay special tax as a broker.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 25, 1898.

SIR: Your letter of the 19th instant has been received, inclosing a letter of Mr. E. S. Graham, land agent at Graham, Tex., stating that,

in addition to his regular business as land agent, he has, in the past, bought notes for himself and others, and inquiring whether this involves him under special tax liability of $50 as a broker under the second paragraph of section 2 of the act of June 13, 1898. You will please advise him in the affirmative.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. P. B. HUNT, *Collector, Dallas, Tex.*

(19870.)

Special tax—Brokers.

Persons whose business it is to negotiate purchases or sales of stocks or other securities, and are also brokers in grain and produce, are required to pay special tax both as brokers and as commercial brokers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 9, 1898.

SIR: In reply to your letter of the 27th ultimo, you are hereby advised that persons engaged in the regular business of brokers in stocks and other securities which they do not have in their possession, and also in grain and produce not consigned to them as commission merchants, are required to pay special tax both as brokers under paragraph 2 of section 2 of the act of June 13, 1898, and as commercial brokers under paragraph 4 of that section. This ruling applies as well to "bucket-shop proprietors giving memorandum of transactions" (to whom you refer) as to all others.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. D. W. HENRY,
Collector Seventh District, Terre Haute, Ind.

(19872.)

Special tax—Brokers.

The business of selling land on commission, taking applications for farm loans, and writing insurance is not the business of a broker as defined by the statute. Special tax is not required to be paid therefor.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 10, 1898.

SIR: In reply to a letter addressed to the Department of Justice on the 1st instant by Mr. G. W. Archer, of Nelson, Nebr. (which has been referred to this office), you will please inform him that a person who,

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though he styles himself a "real estate, loan, and investment broker" (as does Mr. Archer), confines his business to selling land on commission, taking applications for farm loans, and writing insurance, is not on this account required to pay special tax as a broker under paragraph 2 of section 2 of the act of June 13, 1898. There appears to be nothing in the business thus described constituting the negotiation of purchases or sales of stocks, bonds, etc., which that section defines to be the business of a broker, for which special tax is required to be paid.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. J. E. HOUTZ, *Collector Internal Revenue, Omaha, Nebr.*

(19881.)

Special tax—Broker's agent.

A broker's agent, having a place of business where he receives and transmits to his principal orders for the purchase or carrying of stock, and where he receives and disburses the money due customers, is required to pay special tax as a broker and take out and post up the requisite stamp.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 10, 1898.

SIR: This office has received the letter addressed to you on the 12th ultimo by Mr. Harry Leighton * * * wherein he states that, as agent or correspondent of the Metropolitan Stock Exchange of Boston, "a concern that does a brokerage business in stocks and other commodities in that city," he received orders to buy and sell stocks and transmits them to this firm over a private wire leased by them for that purpose; that all moneys received by him for buying or carrying stocks are remitted to this corporation daily, and all moneys due customers from the sale of stocks are remitted by this firm to him to pay to these customers.

You are hereby advised, and you will please so inform Mr. Leighton, that the transactions which he thus describes, in the opinion of this office, constitute the complete carrying on of the stockbroker business at the office in Concord, N. H., of which Mr. Leighton has charge, and that special tax must be paid and the requisite stamp taken out for that office, under the second paragraph of section 2 of the act of June 13, 1898. This tax may be paid either by the Metropolitan Stock Exchange of Boston, for whom Mr. Leighton is acting as agent, or it may be paid by himself. If paid by him, the stamp should, of course, be issued to him and not to the Boston concern.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAS. A. WOOD,
Collector Internal Revenue, Portsmouth, N. H.

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(19885.)

Special tax—Brokers.

The purchase of State, county, school, or district orders or warrants by any person does not subject him to special tax as a broker if this is not done by him to the extent of constituting it his business.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 11, 1898.

SIR: In reply to your letter of inquiry of the 4th instant, you are hereby advised that it is not a violation of the internal-revenue laws for a person not holding a special-tax stamp to purchase county, school, district, and State orders at a discount if he is not engaged in the negotiation of these purchases as his business.

The Supreme Court, in Warren *et al. v.* Shook (91 U. S.. 704), upon the question of the liability of a person for special tax as a broker on account of his negotiation of purchases or sales of the various securities mentioned in the statute, said:

It is only when making sales and purchases is his business, his trade, his profession, his means of getting his living or making his fortune, that he becomes a broker within the meaning of the statute.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. ROBERT TIPTON, *Williamson, W. Va.*

(19894.)

Special tax—Brokers.

Broker's special tax is not required to be paid for negotiating loans of money.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 16, 1898.

SIR: In reply to your letter of the 25th ultimo, you are hereby advised that the business carried on by you, which you describe as receiving money to loan for other persons, the pay which you receive for your services being derived "from the borrowers (that is, the excess of the rate which the owners receive"), does not involve you in special-tax liability as a broker under section 2 of the act of June 13, 1898, and that as you do not have a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or sale, you are not subject to special tax as a banker under that section, unless the money which you loan is loaned on the collateral security of stocks, bonds, bullion, bills of exchange, or promissory notes. (See the decision of the Supreme Court in Selden *v.* The Equitable Trust Company, 94 U. S., 704.)

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. I. M. PRITCHARD, *Armstrong, Iowa.*

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(19937.)

Special tax—Brokers.

Occasional transactions in sale of sight draft do not necessitate payment of special tax of a broker.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 23, 1898.

SIR: Your letter of the 14th ultimo has been referred to this office, wherein you state that it has been your habit for many years to draw sight drafts for small amounts on London, advising the foreign bankers in New York, who in turn advise their London firm. You ask whether, as "these transactions have been of rare occurrence," you are required to pay special tax.

In the opinion of this office you have not involved yourself in special-tax liability under section 2 of the act of June 13, 1898, upon the facts set forth in your letter.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES E. FULLER, *Norwich, Conn.*

(19940.)

Special tax—Brokers.

It is only those whose business it is to negotiate purchases or sales of the securities contemplated by paragraph 2 of section 2, act of June 13, 1898, who are brokers within meaning of that section.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 23, 1898.

GENTLEMEN: Your letter of the 20th ultimo has been received, wherein you state that you "are doing a general merchandising business at retail, dealing mainly with agriculturists," and that "at certain times" you "have been advancing or loaning them money on their promissory notes."

You further state that you "have money loaned out on mortgages," and you inquire whether these transactions bring you "under the category of brokers."

You are hereby advised that they do not. It is only those whose business it is to negotiate purchases or sales of the securities contemplated by paragraph 2 of section 2 of the act of June 13, 1898, who are brokers within the meaning of that section.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

AARON LEVY & CO., *Butler, Ind.*

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(19943.)

Special tax—Brokers.

Broker's special tax is not required to be paid by a person because of the fact of his holding a seat in the stock exchange, if he transacts no business as a broker, either directly or indirectly.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 24, 1898.

SIR: Your letter of the 17th instant has been received, inclosing letters addressed to you by Mr. Julien L. Myers, of 5 West Fifty-third street, New York, wherein he asks whether he is required to take out a special-tax stamp "as a stockbroker holding a seat in the stock exchange but doing no business himself."

If it can be shown in any instance that a person, though a member of the stock exchange, is not engaged either directly or indirectly in business as a broker, the mere fact of his holding such a seat is not sufficient, as this office is at present advised, to subject him to special tax under paragraph 2 of section 2 of the act of June 13, 1898.

But in the case of Mr. Myers it appears from your letter that he has admitted that he does business "through another broker, thereby splitting commissions."

You have correctly informed him, upon this state of facts, that he is a broker and is subject to special tax under that section.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

(19998.)

Special tax—Brokers.

Order to broker to buy not subject to taxation—Broker's office explained with reference to "any exchange, or board of trade, or other similar place."

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 1, 1898.

GENTLEMEN: This office is in receipt of your letter of August 16, 1898, in which you ask to be informed "with reference to the plan of doing business which is carried on between brokers and their correspondents, especially with reference to contracts for the future delivery of stocks; that is, where an order is given by a correspondent to the broker to buy, say, one hundred shares of stock to be delivered at a future day, upon the payment of a required sum by the party purchasing. In case the party does not complete the purchase and closes his account with the principal office, is there any liability on the part of

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the principal office to pay a tax, and can such a transaction be called a sale in the meaning of this statute?"

You are informed that this office does not consider an order to purchase a sale unless the sale is actually or constructively made. When it is made, the broker shall affix and cancel a 10-cent stamp to the broker's note or memorandum of sale.

Your next proposition is with reference to a broker's office selling commodities other than stocks.

Does such an office come within the wording employed in the law "at any exchange, or board of trade, or other similar place," the transaction being wholly consummated in the broker's office, and not in any exchange, board of trade, or other similar place?

* * * * * * *

If a broker sells goods, wares, products, or merchandise, he is subject to a tax of $20 as a commercial broker, and when he makes a sale of any goods or merchandise, stocks, bonds, exchange notes of hand, or property of any kind or description, he should affix and cancel a 10-cent stamp to his broker's note or memoranda of sale.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

NUSSBAUM & COUGHLIN, *Attorneys, Albany, N. Y.*

(20026.)

Special tax—Brokers.

The special tax of a broker is not required to be paid for the mere cashing of checks for customers by merchants or the accepting of checks in payment of merchandise.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 8, 1898.

SIR: This office is in receipt of a letter from Merrill & Riggs, of Cabery, Ill., under date of July 18. * * *

In reply, you will please inform them that merchants simply cashing checks for customers or giving their checks for cash, or accepting checks in payment of merchandise, are not liable to pay special tax as brokers; but if they have a place of business "where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned * * * or promissory notes are received for discount or sale," they are subject to special tax as bankers.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. RICHARD YATES, *Collector, Springfield, Ill.*

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(20028.)

Special tax—Brokers.

A person who is engaged in the business of buying promissory notes for himself and clients, although this is only a branch of the business in which he is engaged, is required to pay special tax as a broker.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 8, 1898.

SIR: This office is in receipt of a letter from Mr. John Hackett, of Creston, Iowa, under date of the 17th ultimo, inclosing your letter to him of August 12.

You state in your letter to Mr. Hackett that, if he makes any real estate loans in his own name and transfers them to others, or if he deals in personal securities as business or a part of his business, such as promissory notes, he is liable to tax as a broker.

Mr. Hackett states in his letter that his business is that of selling real estate, making short and long time loans on promissory notes and personal securities for himself and others, and real estate loans for loaning companies; that he also buys promissory notes for himself and clients; that he does not make loans for himself and others and afterwards sell the securities, and asks if he is liable to pay the special tax as broker.

In reply, you will please inform him that he is subject to special tax as broker; for, as he states, he buys promissory notes for himself and clients.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. J. M. KEMBLE, *Collector, Burlington, Iowa.*

(20091.)

Stamp tax—Brokers' sales of stock.

Tax on instruments used in the sale of stock by brokers in New York.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 22, 1898.

SIR: I have to acknowledge the receipt of your letter of the 31st ultimo, asking a ruling of this office in regard to the taxability of certain forms used in the sale of stock by brokers in New York.

The forms you submit are as follows:

A.

NEW YORK, 8/31, 1898.

[Stamps.]

Sold to John Doe ——— by Richard Roe ——— 100 shares of St. Paul at 115—$11,500.

———.

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B.

NEW YORK, 8/31, 1898,

Mr. John Jones,

——— ———.

DEAR SIR: We have this day bought for your account and risk ———.
We have this day sold for your account and risk 100 shares of St. Paul at 115.

RICHARD ROE, *Broker.*
Per M.

It is further understood that on all marginal business the right is reserved to close transactions when margins are within a half per cent of exhaustion, without further notice, and to settle contracts in accordance with rules and customs of exchange where order is executed.

———

C.

No. ——. NEW YORK, ———, 1898.

[Revenue stamp here.]

At our option, or on three days' notice, we agree to receive (and pay in full) from Mr. ——— ——— shares ——— at $ ——— per share, provided cash is on deposit with us to margin this stock on commodity above the N. Y. Exchange price at all times pending demand or delivery, otherwise this agreement is null and void and to be returned to ———.

Deposit, $———.

———

NEW YORK, ———, 1898.

For value received, I hereby assign this agreement to ———.

——— ———.

In regard to these forms, you ask the following questions:

(1) Where A is used by the broker on the floor of the exchange and is stamped at the rate of 2 cents for each $100 of face value or fraction thereof, and B is afterwards used to notify the customer of the transaction of sale, is B liable to stamp duty in such a case as a broker's memorandum of sale at the rate of 10 cents on each notice?

(2) Where B is used only as a notice of sale, no other paper having been issued or stamped in connection with the transaction, and without regard to what class of brokers use the same, is said paper liable to stamp duty at the rate of 2 cents on each $100 of face value or fraction thereof?

(3) Where C is used only, without regard to the class of brokers that use the same, no other paper having been used or stamped in connection with the transaction, is C liable to stamp duty at the rate of 2 cents on each $100 of face value or fraction thereof?

In reply, you are advised as follows:

(1) Where Form A is used by the broker in making the sale of stock on the floor of the exchange, and it is properly stamped, and Form B is afterwards used in the same transaction to notify the customer for whom the purchase was made, no tax whatever accrues on Form B either as a broker's note or otherwise. It is the ruling of this office that no tax accrues under the paragraph in Schedule A headed "Contract," on the sales of stocks, such sales being otherwise provided for in the act.

(2) Where Form B is used only as a notice of purchase or sale of stock, no other paper having been issued or stamped in connection with

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the transaction, and regardless of the class of brokers using the same, it is liable to stamp duty at the rate of 2 cents on each $100 of face value or fraction thereof as a memorandum of sale of stock.

(3) When Form C is used only in stock transactions, irrespective of the class of brokers using the same, it is taxable at the rate of 2 cents for each hundred dollars of face value or fractional part thereof as an agreement for the future transfer of stock.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. ROBERT WILLIAMS, *Revenue Agent, New York, N. Y.*

(20093.)

Stamp tax—Brokers' sales of stock.

Tax upon shares of stock sold under what are known as "privileges" issued by a broker under the names of "puts," "calls," and "spreads."

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 24, 1898.

SIR: Your letter of the 14th instant, inclosing two letters from Mr. Russell Sage, of your city, one being dated the 14th and the other the 15th instant, has been received.

Mr. Sage states to you that he has been called upon by Revenue-Agent Williams for payment of tax on account of insufficiently stamping transfers of stock, and that upon inquiry at your office he learns that the tax claim is upon certain "privileges" issued by him since July 1, 1898. He inclosed sample printed forms of the "privileges" which he issued, and the question is submitted, What tax is due upon transactions in such an instance?

The three blank forms which he incloses are designated, respectively, as a "put," "call," and "spread." The one designated as a "put" appears to be an agreement by the person who issues it to purchase any specified number of shares of stock at an agreed price at any time within a certain period; the "call" appears to be an agreement to sell any specified number of shares of stock at an agreed price at any time within a certain period; and the "spread" seems to be an agreement to sell or to buy at option, all three of the papers being agreements with "the bearer" thereof.

Mr. Sage designates these papers as "privileges." He represents that such a privilege is not a transfer of stock, but only conveys to the holder the right or privilege to deliver or call for a certain quantity of specified stock at a specified price within a certain time, if desired. He also represents that it is not an agreement to sell in the sense of an ordinary "buyer's option" or "seller's option" transaction, in which case the stock so sold must be delivered and paid for within the time specified, and in which case also the seller agrees to deliver, and the buyer agrees to receive and pay for, the stock at the price and within

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the time named. He further represents that in the case of the "privilege" under consideration there is no agreement or obligation on the part of the person accepting the same to either receive or deliver the stock named therein, it being simply his right to make his choice of doing either if he so desires, there being no actual transfers until the determination of such choice is made. He also contends that an agreement to sell must have two parties to it, and that these "privileges" are not agreements in that sense, as they are signed by only one party, and there is no agreement or obligation on the part of any other party to accept the conditions offered. He objects to payment of a tax on the agreement to sell the stock named in the privilege, for the reason that when the stock is actually delivered and paid for, in case the privilege is availed of, the tax on the transfer of the shares of stock is then paid, and a double tax would thus be collected for the one transfer.

There appears to be some confusion in regard to the tax due upon the papers used in this class of transactions. The first paragraph of Schedule A of the act of June 13, 1898, is very clear in its requirements that on all sales, or agreements to sell, or memoranda of sales, or deliveries, or transfers of shares, or certificates of stock in any association, company, or corporation, a tax of 2 cents must be paid on each $100 of face value or fraction thereof, and this tax is to be paid whether the sales or agreements to sell are made upon or shown by the books of the association, company, or corporation, or by any assignment in blank, or by any delivery, or by any paper, or agreement, or memorandum, or other evidence of transfer or sale, whether entitling the holder in any manner to the benefit of such stock, or to secure the future payment of money, or for the future transfer of any stock. It further specifies that in case of an agreement to sell there shall be made and delivered by the seller to the buyer a bill or memorandum of such sale, to which the stamp shall be affixed; and every bill or memorandum of sale or agreement to sell shall show the date thereof, the name of the seller, the amount of the sale, and the matter or thing to which it refers; and a penalty is imposed upon any person, or his agent, or broker who shall make any such sale without having the proper stamps affixed thereto.

It appears to be the intention of the law to include in its imposition of tax in such cases the agreements to sell and for the future transfer, as well as the actual sales and transfers of stock, and to include such agreements as taxable whether or not they are afterwards completed. The "call" privileges issued by Mr. Sage are undoubtedly agreements to sell the stock therein named upon demand of the bearer of the privilege, while the "put" comes also as plainly within the terms of the law declaring "any paper, agreement, or memorandum * * * for the future transfer of any stock" subject to taxation. The "spread" privileges include in one instrument the agreements contained in both the "call" and "put," and all these papers, evidencing such agreements, must be stamped to the amount required by the act. If the

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transaction in any case is completed by a transfer of the stock, no further tax will become due, the tax having already been paid upon the agreement made for such transfer.

Mr. Sage represents that the proper tax upon such agreements would be a 10-cent stamp for each paper, as for other contracts. This is an erroneous view, as transactions of this kind are provided for in the first paragraph of Schedule A.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

(20157.)

Special tax—Brokers.

A party is involved in liability as broker whose business it is to sell stocks and bonds for clients, also city scrip and county warrants on commission, or for a fee.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 7, 1898.

GENTLEMEN: In reply to your letter of the 26th ultimo, from which it appears that part of your business is "selling notes for clients, selling stocks and bonds for clients, selling city scrip and county warrants for clients, buying any security," etc., for "all of which" you are paid a commission or a fee by the person or by the buyer, as the case may be, you are hereby advised that this clearly involves you in liability as brokers under the definition contained in paragraph 2 of section 2 of the act of June 13, 1898, and that the special tax heretofore, as you state, paid by you to the deputy collector was properly paid. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

W. H. HUDSON & CO., *Houston, Tex.*

(20160.)

Special tax—Brokers.

A person who, in the month of July, engages in any business for which special tax is required to be paid, must pay the tax for the entire year, beginning July 1, and if thereafter he takes in a partner, the firm thus created must also pay special tax, reckoned from the first day of the month in which it began the business to the 1st day of July following, and take out a stamp in the firm name, without any rebate or allowance on account of the tax paid by the person in question for the business carried on by him individually prior to the creation of the firm.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 10, 1898.

SIR: In reply to your letter of the 1st instant, you are hereby advised that the special tax of $50 paid by you on July 1, 1898, as a broker, for

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the year beginning on that date, was the tax required to be paid for that business carried on by you in your individual capacity. When you (as you state) took in a partner on the 1st instant, the firm thus created (an entirely distinct and separate person in law from the individuals composing it) was required to pay the special tax, which you state has been paid ($37.50), reckoned from the 1st of October to the 1st day of July, 1899, in accordance with the provisions of section 3237, Revised Statutes, as amended.

There is no warrant of law for any rebate or allowance to you on account of the tax which you paid in July.

When any person carries on a business for which special tax is imposed, even if he discontinues the business after having been engaged in it but for the briefest period, the tax is required by the law to be paid for the entire time, reckoned from the first day of the month in which the liability began to the 1st day of July following; and the stamp (which is merely a receipt for tax and not a "license") can not be transferred or made over to answer for the business carried on by any other person, except in the single instance provided for by section 3241, Revised Statutes, namely, the death of the special-tax payer.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. C. L. MCCREA, *Dayton, Ohio.*

(20163.)

Stamp tax—Brokers' money orders.

Money orders issued by Italian brokers in the United States for transmission abroad are taxable.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 11, 1898.

SIR: Some weeks ago the attention of this office was called to certain forms used by Italian money brokers in New York and other large cities in transmitting money abroad and a ruling of this office asked as to what stamps were required.

It appears that these brokers receive money, say, from A, in Boston, to remit to B, in Genoa. Upon receiving the money from A the broker hands to him or mails to his address two papers, one of which acknowledges the receipt of the money from A, and is probably retained by A. The other advises B, in Genoa, that a certain amount has been sent to him in a registered letter and should be mailed by A to B. In addition to these two papers, instructions are sent by the broker to a bank in Genoa to put in a registered letter, addressed to B, a certain amount of Italian coin or currency. This office ruled that this latter paper was an order for the payment of money, and should pay a tax for a sum not exceeding $100 4 cents, and for each $100 or fractional part thereof in excess of $100 4 cents. Complaints has been made that in some

collection districts this ruling is not enforced. This may be due to the fact that the ruling has not heretofore been published.

All parties engaged in the business above described who have not stamped the orders should be required to make returns to the collectors of their districts of all such orders issued by them since July 1, 1898, and the collectors should report them for assessment.

If the brokers refuse to make returns, they should be reported to the United States attorney for the judicial district in which they conduct business.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. D. SEWALL, *Revenue Agent, Boston, Mass.*

(20167.)

Special tax—Brokers.

A person who carries on the business of a broker, both in stocks and other securities and in grain, merchandise, or produce, is required to pay the special tax of $50 as a broker and special tax of $20 as a commercial broker. Collectors should ascertain and report for assessment all such cases in their districts, where both special-tax stamps are not held by these brokers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 11, 1898.

SIR: The attention of this office has been called to the fact that some persons and firms engaged in the regular business of brokers in stocks and other securities have paid special tax as brokers only, although they are also engaged in negotiating sales and purchases of grain and produce. You are hereby instructed to cause a special investigation to be made with reference to all persons or firms conducting this class of business in your district, and wherever it is found that any are engaged in the business of negotiating, as brokers, sales or purchases of grain or produce, in addition to the other business carried on by them as stock brokers, report every such case to this office for assessment of the special tax of $20 (under the fourth paragraph of section 2 of the act of June 13, 1898) and the 50 per cent penalty.

The business of a "commercial broker" is, in view of the express provisions of the statute, to be regarded as distinct and separate from that of a "broker," and there is no reasonable ground for the impression that seems to prevail in some quarters that the $50 special-tax stamp taken out by a person under the second paragraph of section 2 of the act entitles him to do business both as a broker under that paragraph and as a commercial broker under the fourth paragraph.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

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(20235.)

Special tax—Brokers.

A person whose business it is to negotiate purchases and sales of life-insurance contracts liable to pay special tax as broker.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 22, 1898.

SIR: In a letter addressed to this office on the 27th ultimo, Mr. C. E. Shepard, general agent for the Ætna Life Insurance Company, who states that his "business is to sell insurance for that company," says that he also makes "it a point to buy up life-insurance contracts, where the insured are not able to continue their payments," and that he either keeps the policy for himself "or lets it out again at a profit," and submits the question whether he is required, on this account, to pay $50 and take out a broker's special-tax stamp.

If his transactions in the negotiation of the purchase of life-insurance contracts are so extensive as to constitute a "business" within the meaning of the second paragraph of section 2 of the act of June 13, 1898, he must be required to pay special tax under that paragraph as a broker, as the "insurance contracts" are held by this office to be "securities" within the meaning of this word as it is used in the statute.

You will please so inform Mr. Shepard * * * and ascertain and report the extent of this business carried on by him, and also the extent of the same business carried on, as he states, by "several other insurance agents" in Hartford.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. THOS. A. LAKE, *Collector Internal Revenue, Hartford, Conn.*

(20262.)

Special tax—Brokers.

The business of negotiating loans, the borrowers paying a commission to the persons securing the loans, drawing papers, examining titles, etc., is not the business of a broker as defined by paragraph 2 of section 2 of the act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 27, 1898.

SIR: In the report made to you on the 17th instant by Mr. John N. Stewart, revenue agent, concerning the Southern Guarantee and Investment Company, of Greensboro, he states that he has notified Mr. E. P. Wharton, president, and Mr. A. W. McAlister, secretary and treasurer

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of this company, to make return and pay a special tax of $50 and penalty to the collector of the fifth district of North Carolina; and that he is "satisfied, on investigation of the business of these people, as well as their statements, that they are 'brokers' as contemplated under paragraph 2, section 2, of the act of June 13, 1898." They say, however, in their statement accompanying this report:

We conduct the loan business in the following manner: Money is listed with us to loan just as real estate is listed for sale. Borrowers make application to us, we examine their property, prepare the papers, and make abstract of title. The papers (note and mortgage) are executed by the borrower and are made payable directly to the lender. The borrower pays us a commission for securing the loan, drawing papers, examining title, etc. We lend money just as lawyers do for their clients.

If this is all the business done by the Southern Guarantee and Investment Company and by Messrs. Wharton and McAlister, it is not such business as involves them in special-tax liability as brokers under paragraph 2 of section 2 of the act of June 13, 1898.

The loaning of money on real estate, taking notes and mortgages therefor, can not be regarded as the negotiation of "purchases or sales of stocks, bonds," etc., which is declared to be the business of a broker by the statute.

Respectfully, yours, N. B. SCOTT, *Commissioner*

Mr. L. A. THRASHER, *Revenue Agent, Greensboro, N. C.*

(20269.)

Special tax—Brokers.

Parties not required to pay special tax as brokers for indorsing notes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 31, 1898.

SIR: Mr. Hiram L. Barker, a lawyer at 16 State street, Rochester, in a letter to this office, dated the 26th instant, says that you have sent him a notice requiring him to pay special tax as a broker. He denies his liability as a broker, and says that he is an attorney and counselor at law; that he does not buy, sell, or negotiate notes or securities of any kind for himself or other persons, but that occasionally he indorses a note; and the person at whose request it is indorsed negotiates it or has it discounted at some bank, and the proceeds of the discount paid to him or his order, but that he (Barker) never procures the discount himself and has no understanding or agreement with any bank for the discount of notes bearing his indorsement.

You are hereby advised that if the only ground on which you have called upon Mr. Barker to pay special tax as a broker is that he has indorsed notes for persons, although he does so (as he states) for "a * * * compensation," the demand notice should be withdrawn.

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Such indorsement of notes is not sufficient to involve him in special-tax liability as a broker, within the definition of a broker as it is contained in the second paragraph of section 2 of the act of June 13, 1898.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. VALENTINE FLECKENSTEIN,
Collector Twenty-eighth District, Rochester, N. Y.

(20274.)

Stamp tax—Bucket shops.

Tax imposed on sale of products and merchandise in bucket shops—A bucket shop a "similar place" to board of trade or exchange under the law.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 2, 1898.

SIR: In further reply to your letter of September 8, inclosing letter from Mr. Willis H. Clark, attorney at law, and in modification of my letter of the 5th ultimo, there is inclosed a copy of letter from this office of the 18th ultimo to Revenue Agent McGinnis, at Chicago, as to the tax which becomes due upon agreements to sell or sales of any products or merchandise at any exchange or board of trade or other similar place. The ruling therein contained may be considered as the views of this office upon that subject as at present advised.

Mr. Clark contends that in such cases the law applies only to those quasi public institutions existing in most of our large cities under various titles as an "exchange" or "board of trade," wherein the bulk of the grain and stock trade is concentrated and prices established, and that it is erroneous to hold that it applies to what are known as "bucket shops," or to the office of a broker who there simply receives orders to buy or sell stock or grain, which he may execute on the floor of an exchange or by private purchase or sale. You will explain to him that the tax is imposed only upon sales or agreements to sell either stocks or products and merchandise. Transactions in stocks are taxable wherever made. Transactions in products or merchandise are taxable only when made at "any exchange, board of trade, or other similar place." The word "similar" means bearing a resemblance, as to something implied or specified; like, but not completely identical; of like characteristics, nature, or degree; of the same scope, order, or purpose.

The two subjects with which the word "similar" is associated in the law are in some respects unlike, one conveying the meaning of a fixed point, an established institution of a permanent character for use in business purposes, while the other includes simply an organization of business men for promotion of business interests, whose place of meeting may be changed to any rooms or location desired at will. When the scope of the law thus far defined is then enlarged by the words "or other similar place," the construction becomes irresistible that by their

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use it was intended to describe any place of like character used for like purposes by persons engaged in business pursuits.

Please inform Mr. Clark and other inquirers upon this subject that, in the opinion of this office, the law imposing a tax upon sales of any products or merchandise applies, in addition to operations at all exchanges, or boards of trade, under this comprehensive clause "or other similar place," to operations at any established place where business interests meet for the purpose of conducting such operations, such as offices devoted to trading of this kind, without regard to their location or designation and whether known under the name of a "bucket shop" or by whatsoever other name.

It may be well to mark the distinction between transactions in stocks and those in "products or merchandise." A familiar illustration may suffice for this purpose: Should a group of brokers, on their way from a meeting on 'change, make dealings on the sidewalk or street corners as they pass along, their transactions in stocks become taxable, while those in "products or merchandise" do not, for they are not as yet in an established place for such dealings. If they stop at a restaurant on the way, the same rule obtains; but when they enter an office used for the special purpose of dealing in stocks or products and merchandise, where they are surrounded with the paraphernalia incident to their occupation, with the facilities for obtaining quotations and making prices, the situation is changed, and their dealings in products or merchandise then become taxable as being made in a similar place to that of any exchange or board of trade.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. H. C. GRENNER, *Collector First District, St. Louis, Mo.*

[Inclosure.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 18, 1898.

SIR: I have an inquiry from Mr. William E. McHenry, through Revenue Agent McCoy, under date of the 30th ultimo, in regard to transactions in grain and provisions for shipment to points in the United States and foreign countries by members of the board of trade in Chicago, before and after the regular board of trade hours, in the office of the parties to such transactions, and also, sometimes, on the sidewalks and vicinity of the board of trade, and the question is asked if these transactions are subject to tax under paragraph 2, Schedule A, of the act of June 13, 1898, and if an office is to be considered as a similar place to a board of trade or exchange. It is stated that no tax is now, or has been, paid on the transactions referred to, the parties thereto claiming that an office is not a "similar place" in the meaning of said law, although they acknowledge that the transactions are almost entirely based on board of trade quotations and prices, and that the parties making them are subject to board of trade regulations and discipline as to the honorable fulfillment of contracts.

In reply you are advised that under the language of the law impos

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ing a tax upon transactions of this kind at "any exchange, or board of trade, or other similar place," this office has held that sales at any permanent business place, used generally for purposes of dealing in products or merchandise, without regard to its location or designation, where an assemblage of traders—buyers and sellers—meet for the purpose of transacting business under the advantages there to be obtained, come within the provisions thereof, and are subject to tax accordingly.

In commerce an exchange is defined to be a place where business interests of a special character are brought together, and where contracts concerning them are made, as the stock exchange, the cotton exchange, or the produce exchange, and a board of trade is an association of merchants, bankers, etc., to promote business interests. The words "or other similar place" undoubtedly include any place of like character used for like purposes by persons engaged in business pursuits.

In view of the scope of the law as thus conceived, this office is of the opinion that transactions in products or merchandise between those specially engaged therein, at *any* business place used for such purposes, without regard to location or designation, where they may meet and make their contracts or agreements, are subject to tax.

This office believes that dealers in any products or merchandise will see the propriety of requiring payment of tax upon their commercial transactions made outside of an exchange or board of trade, but at a place similar in the purposes for which it is designed and used, as well as when made inside the limits thereof, the principle of the law being to impose a tax upon the transactions made at any well-established place where business interests meet for the purpose of dealing in products or merchandise.

This construction of the provisions of the act of June 13, 1898, while it will apply without hesitation to the ordinary offices where such business is conducted, will not apply to the casual transactions which may occur on the sidewalks, street corners, or other public places where they will occasionally happen.

It may be added for your information, in case further inquiries are made, that the ruling herein contained is in accordance with the views of the Department of Justice.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. JAMES W. MCGINNIS, *Revenue Agent, Chicago, Ill.*

(20374.)

Special tax—Brokers' branch offices.

Special tax must be paid for every branch office established by a broker in the legitimate brokerage business, where the employee in charge of such branch office not only receives and transmits orders with the money to the main office, but also receives from the main office moneys for disbursement to customers, or keeps accounts with the customers at the branch office, or does other business with relation to the transactions of brokers at such branch office—Separate special tax must be paid and a separate stamp taken out for every "bucket shop," whether such office is called a branch office or a main office.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 25, 1898.

SIR: In a large number of cases of brokers in your district who have branch offices which have been reported to this office by the revenue

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agents for assessment you have transmitted letters from these brokers wherein they contend that, under the statute, as construed by this office, they are not liable for special tax at these branch offices. This contention is mainly supported by the ruling to which they refer, No. 21, in Circular 508, which reads:

Broker's tax is not required to be paid at branch offices where a clerk is employed whose sole duty is to receive orders and transmit them by wire to the head of the office. The mere receipt and transmission, by clerks, of orders is not regarded as the carrying on of the business of a broker.

This ruling as originally promulgated had reference only to small branch offices in which a clerk, on a salary, is employed whose sole duty it is to receive orders and transmit them to the main office of the brokers employing him, and who is intrusted with no other powers and transacts no other business and does not make any disbursements of money in the business.

It is expected that the ruling as herein stated will not be extended by collectors in any case whatever beyond its strict terms.

In every case, therefore, where branch offices are established by brokers, you are directed to report the facts for assessment of the special tax (but without the 50 per cent penalty, the question having been held under advisement up to this time on account of the letters received by you and transmitted to this office from the various firms reported by the revenue agents), except where it is clearly shown, by statement under oath furnished you by the brokers in question, that no money is transmitted to the employee by the main house for disbursement to customers; that no accounts are kept with customers at the branch office; and that no other business whatever, with relation to the transactions of brokers, is conducted at the branch office.

It is understood that the small branch offices of brokers established in hotels come strictly within the ruling No. 21, in Circular 508, as limited and restricted by the terms of this letter. The ruling as thus restricted is to be applied to cases where the clerk or employee at the branch office not only receives orders for the purchase of stocks, but also receives offers from customers to sell stocks, these being transmitted to the main office without any further action thereon by the clerk or employee.

From the tenor of some of the letters transmitted by you wherein brokers protest against the collection of special tax for their branch offices, upon the advice of counsel that the special-tax stamp taken out for the main office is all that is required by the statute, however many different places of business they may carry on, it is evident that there is a lack of acquaintance with the provisions of the law relating to this subject.

You will please call the attention of all the persons and firms who have submitted their arguments to you upon this point to the language of the first clause of section 3235, Revised Statutes, which provides

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that "the payment of the special tax imposed shall not exempt from an additional special tax the person carrying on a trade or business in any other place than that stated in the collector's register," and inform them that this statutory requirement applies not only to the occupations for which special taxes are required to be paid under the old laws, but is extended and made applicable to those under the war-revenue act, in view of the provision of section 31 of that act that "all administrative, special, or stamp provisions of law, including the laws in relation to the assessment of taxes not heretofore specifically repealed are hereby made applicable to this act."

While there are no doubt many cases of small branch offices established by persons and firms engaged in the regular business of stock brokers, for which, under the ruling as herein set forth, no special tax is required to be paid, it should be understood that this ruling can not, in any case, be applied to bucket shops. The special tax must be paid and the stamp taken out and posted up at every place where bucket-shop transactions in stocks are carried on; and it matters not whether these bucket-shop places are branch offices, under the management of clerks or employees, or are the principal offices of the persons conducting them.

In each of the cases which you have submitted to this office you will please ascertain from your deputies and report, in detail, the particular facts as to the business transacted at the various branch offices in your district, and obtain a statement under oath with regard thereto from the brokers controlling them, and submit it to this office with your views thereon.

It is not the desire of this office that any further argument should be submitted for a construction or an interpretation of the statute on this point. The ruling is to be regarded as conclusive so far as this office is concerned; and if any firm of brokers in your district is still desirous of disputing the correctness of this interpretation of the law the only course for them to take is, after payment of the special tax for the branch office and the rejection of a claim made for the redemption of the stamp taken out, to resort to the courts for a judicial determination of the question in dispute.

There remains nothing but the question of fact in each of these cases; and wherever the facts, ascertained upon investigation made by your deputies, are such as to establish the special-tax liability of any person at a branch broker's office, the case should be reported by you for assessment.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

BROKERS, COMMERCIAL.

(*See* COMMERCIAL BROKERS.)

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BUILDING AND LOAN ASSOCIATIONS.

(20187.)

Stamp tax—Building and loan associations.

Exemption from tax, under act of June 13, 1898, of building and loan associations.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 11, 1898.

GENTLEMEN: I acknowledge the receipt of your letter of the 10th instant, inclosing articles of association and semiannual report of your corporation.

It appears from these papers that you are not in any sense a bank, but are doing business simply as a building and loan association, making loans only to your shareholders. This being the case, you are entitled to all the exemption accorded to such companies by section 17, act of June 13, 1898.

In accordance with a late opinion of the Attorney-General, this office rules that any papers or instruments (otherwise taxable) executed by a building and loan association that makes loans only to its shareholders, or any such papers and instruments made or executed by the shareholders to the association and within the limits of its legitimate operation, are exempt from the stamp tax, except checks or drafts given by such associations, or by the shareholders thereof, which are subject to the tax.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

The COOPERATIVE BUILDING BANK, *New York, N. Y.*

CERTIFICATES.

(*See also* DECISIONS: *Custom-house*—Decision 19605, p. 143. *Notarial*—Decisions 19742, p. 228; 19800, p. 95; 19834, p. 230; 19882, p. 231. *Stock*—Decisions 19807, p. 256; 19685, p. 115; 19700, p. 240; 19736, p. 116; 19888, p. 257; 19978, p. 118; 20070, p. 259.)

(19681.)

Stamp tax—Papers for record.

Liability for recording or registering documents required by law to be stamped, unless stamps are affixed and canceled.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 12, 1898.

SIR: Your letter of the 30th ultimo has been received. You ask what the new revenue law requires of you in connection with the receiving for record of papers which require to be stamped.

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Section 15 of the act of June 13, 1898, provides—

That it shall not be lawful to record or register any instrument, paper, or document required by law to be stamped unless a stamp or stamps of the proper amount shall have been affixed and canceled in the manner prescribed by law; and the record, registry, or transfer of any such instruments upon which the proper stamp or stamps aforesaid shall not have been affixed and canceled as aforesaid shall not be used in evidence.

The certificates of acknowledgment to deeds, mortgages, or other legal instruments require to be stamped with a 10-cent stamp as a certificate in addition to the stamp provided by law for the instrument itself. They are no part of the execution of the deed or mortgage, and are not covered by the stamp required upon such deed or mortgage.[1]

The jurat to an affidavit does not require to be stamped.

The memorandum on the back of a deed or mortgage made by a register or recorder that the instrument has been placed upon record is not a subject of taxation.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. C. C. MONTGOMERY, *Recorder of Deeds, Wilmington, Del.*

(19698.)

Stamp tax—Certificates.

Certain certificates made by national banking associations not liable.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 14, 1898.

SIR: Responding to your favor of the 7th instant, inclosing blank form of report of earnings and dividends required by section 5212, Revised Statutes, to be made to you by national banking associations, which is required to be attested by the oath of the president or cashier, you are advised that such attestation to the report is not held by this office to be a certificate required by law.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. CHARLES G. DAWES, *Comptroller of the Currency.*

(19706.)

Stamp tax—Certificates.

Stamping certificates of damage to vessels.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 18, 1898.

SIR: In reply to your letter of the 7th instant, you are informed that the certificates of damage to vessels and their machinery, given by you,

[1] This ruling has been reversed. No stamp is now required on the certificate of acknowledgment to deeds or mortgages whatever the amount involved. See decision 19764, p. 82.

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require a 25-cent stamp only upon the original, not upon copies which may be made.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. FRANK S. MARTIN, *New York, N. Y.*

(19710.)

Stamp tax—Transfers of certificates of stock.

In reckoning the stamp tax on transfers of certificates of shares, the tax is reckoned on the face value.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 19, 1898.

GENTLEMEN: Your letter of the 5th instant has been received, stating that "the par value of Union Traction shares is $50, and the full capital of the company upon this basis has been subscribed for, but the shareholders, up to this time, have only been called upon to pay in upon their subscriptions $12.50 per share," and inquiring whether, in reckoning the stamp tax on transfers of the certificates of these shares, "$50 or $12.50 is the face value of Union Traction shares, within the meaning of the law."

You are hereby advised that $50 is held by this office to be the face value.

This office finds no warrant in the language of the act of June 13, 1898, for taking into consideration, in reckoning this tax, the fact that only part of the face value of shares of stock subscribed for and issued has been paid by the shareholders.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Messrs. DREXEL & CO., *Philadelphia, Pa.*

(19746.)

Stamp tax—Certificates.

Rulings as to stamping of certificates under act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 21, 1898.

SIR: I have the honor to acknowledge receipt of your letter of the 14th instant, inclosing letter to you from Mr. Park Davis, of Sioux Falls, S. Dak., and a list of questions propounded by him, asking the construction placed by this office upon the words "certificate of any

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description required by law, not otherwise specified in this Act, ten cents," as they occur in the war-revenue law of June 13, 1898. The questions are:

1. Is a stamp required on a certificate of acknowledgment to a deed, mortgage, bond, assignment of mortgage, power of attorney to sell real estate, or other instrument required by the revenue law to be stamped, where such instrument has been stamped?—Answer. No.

* * * * * * *

5. Is a stamp required on a certificate of incorporation?—Answer. Yes.

* * * * * * *

7. Is a stamp required on a certificate or return of service of summons, or other process?—Answer. Return on summons or other court process issued to sheriff is not a "certificate."

8. Is a stamp required on a certificate issued at city or county tax sale?—Answer. No.

9. Is a stamp required on a certificate of election?—Answer. No.

10. Is a stamp required on a certificate of probate of will?—Answer. Yes.

11. Is a stamp required on a certificate of good moral character required by one seeking admission to the bar?—Answer. No.

12. Is a stamp required on a certificate of sale issued by a sheriff under foreclosure by action, or on execution, and on the acknowledgment thereto, or either of them?—Answer. This question is not understood. In case of a foreclosure of mortgage, it appears to this office that the document made by the sheriff in the case would be a return, and it is not understood how there could be any acknowledgment in connection with such return.

13. The same difficulty in understanding this question. Sheriff usually makes a return of a sale made by him under foreclosure, and such return is not a certificate as prescribed in the law.

14. Is a stamp required on a sheriff's deed, and on the acknowledgment thereto, or either of them?—Answer. On deed.

15. Is a stamp required on a certificate of marriage?—Answer. It is, unless given for the purposes of the State.

16. Is a stamp required on a certificate of a judgment and on the acknowledgment thereto, or either of them?—Answer. If satisfaction is entered on the record, no stamp is required. If a separate instrument is made, it should be stamped.

* * * * * * *

18. Are not all kinds of certificates required in judicial proceedings exempt from the provisions of the revenue law?—Answer. No. The law specifically exempts those under section 17 only. Bonds required in judicial proceedings are exempt.

* * * * * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. R. F. PETTIGREW, *United States Senate.*

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(19764.)

Stamp tax—Certificates of acknowledgment.

Certificates of acknowledgment to deeds and mortgages not required to be stamped.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 26, 1898.

SIR: In the letter to you of the 12th instant, relative to recording documents required by law to be stamped, and published as decision No. 19681, page 78, it was stated that certificates of acknowledgment to deeds or mortgages required a 10-cent stamp as certificates.

This ruling has been reversed. It was a matter of considerable doubt, as there was no exception made in the act of June 13, 1898. In the old act, the law specially exempted certificates of acknowledgment. (Section 160, act of June 30, 1864.) It is considered, however, that such certificates are part of the deed or mortgage and do not require a stamp. * * *

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. C. C. MONTGOMERY, *Recorder of Deeds, Wilmington, Del.*

(19825.)

Stamp tax—Certificates of State officers.

Certificates issued by the health officer of New York, under State statute, relative to the employment of children, are exempt, being issued in the discharge of a duty connected with the operations of the Government.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 2, 1898.

SIR: Your letter of the 13th ultimo, addressed to the honorable Attorney-General, has been referred to this office.

You inquire whether or not certificates issued under the New York statutes, relative to the employment of children, should be stamped.

The New York State statute provides that—

A child under the age of fourteen years shall not be employed in any mercantile establishment, except that a child upwards of twelve years of age may be employed therein during the vacation of the public schools of the city or district where such establishment is situated. No child under the age of sixteen years shall be employed in any mercantile establishment, unless such child shall produce a certificate issued as provided in this article, to be filed in the office of such establishment.

The law provides that the "certificate shall be issued by the executive officer of the board, department, or commissioner of health of the city, town, or village where such child resides or is to be employed," etc.

I hold that these certificates are not subject to tax. They are issued

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by the health officer under a general statute made for the benefit of the health, and for the protection of the children, and are, therefore, issued by the health officer in the discharge of a functional duty connected with the operations of the Government.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. M. C. MURPHY,
President Department of Health, New York, N. Y.

(19837.)

Stamp tax—Probate papers, etc.

Letters of administration and other probate papers, certificates of sale for unpaid taxes, and certificates of redemption.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 5, 1898.

SIR: This office is in receipt of a letter from Mr. Marcus A. Norton, county clerk, Rockford, Ill., asking if certain papers require revenue stamps. * * *

Please inform him that letters of administration, letters testamentary, or of guardianship do not require stamps. Petitions for the appointment of administrators, executors, or guardians require no stamps. * * * No stamp is required on certificate of tax sale for unpaid taxes, nor on the certificate of redemption from sale.

Respectfully, yours,

G. W. WILSON, *Deputy Commissioner.*

Mr. F. R. COYNE, *Collector First District, Chicago, Ill.*

(19883.)

Stamp tax—Certificates issued by State officers.

Teachers' certificates issued by State or county officers do not require a stamp—Certificates required by law, issued by State officers at request of private persons, solely for private use, require a stamp.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 10, 1898.

SIR: Mr. Thomas B. Stockwell, secretary of the State Board of Education, Providence, R. I., in a letter of inquiry of June 23, requested to be advised whether certificates required by law to be issued by the State Board of Education as to the qualifications of school teachers, as well as other certificates issued under statutory requirements, are subject to stamp tax under Schedule A of the act of June 13, 1898.

You are informed that teachers' certificates issued by State or county officers come within the exemption provided in section 17, of said act, and do not require a stamp.

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Certificates issued by an officer of the State, in the interest of the State, are not liable to tax.

Certificates required by law, issued by State officers at the request of private persons, solely for private use, should be stamped.

The stamp should be furnished by the person applying for the instrument, and for whose use and benefit the same is issued, and should be affixed before the document is delivered.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. THOS. A. LAKE, *Collector Internal Revenue, Hartford, Conn.*

(19934.)

Stamp tax—Certificate of membership.

Certificate of membership in a wheelman's protective association not taxable as a certificate, but is taxable as a guaranty.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 22, 1898.

SIR: Mr. H. C. Meyer, secretary of the National Wheelmen's Protective Association, Ninth and Chestnut streets, Philadelphia, Pa., writes this office under date of July 13, 1898, relative to stamp tax on certificate of membership in said association. He incloses a copy of the certificate referred to and a marked copy of their prospectus, and says they are purely mutual, "charging our membership just what we believe will maintain the association, which consists practically of the membership of the Pennsylvania Division League of American Wheelmen. The fee for membership is $1.25 per year, which guarantees the wheel of the member against loss by theft." The receipt of his letter has been acknowledged, and he has been referred to you.

Please inform him that the certificate does not require a 10-cent stamp as a certificate, but that it should be stamped as a guaranty at the rate of one-half cent on each dollar, or fractional part thereof, of premium charged. As $1.25 appears to be the premium charged, a 1-cent stamp should be affixed to each certificate.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. P. A. MCCLAIN, *Collector First District, Philadelphia, Pa.*

(20387.)

Stamp tax—Certificates.

Certificates of inspection of steam vessels and all copies thereof are exempt from taxation.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 26, 1898.

SIR: Messrs. Geo. S. Bush & Co., custom-house brokers and counselors, Seattle, Wash., addressed Secretary Gage, under date of

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August 2, relative to the tax due on official certificates. Their letter has been referred to this office. Please instruct these gentlemen, in reply to their communication, as follows:

(1) The collector's indorsement on registers, enrollments, etc., of change of master of a vessel is not, in the opinion of this office, subject to taxation.

(2) The notary's certificate of acknowledgment on bills of sale is subject to a tax of 10 cents if such a certificate is required by law to make the instrument valid. The notary's certificate to a mortgage is part of an instrument upon which a rate of taxation is imposed and is covered therein. It is not subject to tax for itself when appended to an instrument for which a rate of taxation is provided.

(3) The original certificate of inspection from the local inspectors of steam vessels, which remains on file in the collector's office, is exempt from taxation as an instrument issued by direction of law through government instrumentality for its own uses and purposes, and the two copies of this certificate which the law requires must be exposed under glass where passengers and other persons can see them, certified by the collector of customs, are also exempt for the same reason. The copy required by law to be furnished the owner of the vessel is not subject to tax, as he is not required by law to accept or provide the same for any use or purpose, and the contemplated benefit of its use in official form for reference would be defeated by a provision subjecting the document to a tax, when an unofficial copy could be made from those the law provides shall be exposed under glass in every vessel.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. DAVID M. DUNNE, *Collector Internal Revenue, Portland, Oreg.*

CERTIFICATES OF DEPOSIT.

(19570.)

Stamp tax—Certificates of deposit.

Certificates of deposit bearing interest, subject to tax of 2 cents when for a sum not exceeding $100, and also to same tax for every additional $100 or fraction thereof.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 24, 1898.

SIR: Will you please reply as follows to the various questions submitted to this office by Mr. M. L. Williams, vice-president of the Commercial National Bank of Detroit, in a letter dated the 15th instant:

Checks, notes, etc., made and issued prior to July 1, 1898, do not require a stamp under Schedule A of the act of June 13, 1898, though paid after that date.

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A certificate of deposit bearing interest, though payable on demand, is subject to a tax of 2 cents when it is for a sum not exceeding $100, and for each additional $100 or fraction thereof in excess of $100, 2 cents. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHARLES WRIGHT, *Collector First District, Detroit, Mich.*

(20003.)

Stamp tax—Certificates of deposit.

Certificates of deposit to secure the payment of gas bills taxable as certificates of deposit drawing interest.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 3, 1898.

SIR: This office is in receipt of a letter under date of July 19, 1898, from Mr. B. W. Perkins, superintendent South Bend Fuel and Gas Company, South Bend, Ind., inclosing a blank form of a certificate of deposit issued by the South Bend Fuel and Gas Company to patrons thereof upon the deposit of funds to secure the payment of gas to be consumed, and asking a ruling thereon as to its liability to the stamp tax.

After a careful examination of the form of certificate of deposit submitted—

SOUTH BEND FUEL AND GAS COMPANY.

$——. No. 250.

South Bend, Ind., ——— *189–.*

——— has deposited with the South Bend Fuel and Gas Company ——— dollars, as security for the gas consumed at ———.

The amount for which this certificate is given is to be held as security for gas consumed at the location above stated until the depositor notifies the South Bend Fuel and Gas Company in writing to the contrary, and is payable to ———, with ——— per cent interest per annum, provided all indebtedness there may be for gas consumed at ——— prior to said written notice be deducted from this certificate.

SOUTH BEND FUEL AND GAS COMPANY,
Per ——— ———.

It is found that this is a certificate of deposit drawing interest, and as such is taxable under the fifth paragraph of Schedule A, and must bear a 2-cent stamp for each $100 or fractional part thereof.

Not only does this ruling hold good in South Bend, but in all cities where these certificates of deposit, drawing interest, are issued upon the deposit of money to secure the payment for the future consumption of gas.

They have been notified of the holding of this office, and you will see that these certificates are properly stamped.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. AMBROSE E. NOWLIN,
Collector Sixth District, Lawrenceburg, Ind.

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(20420.)

Stamp tax—Certificates of deposit.

Certificates of deposit, payable on demand, and bearing interest if left for specified time, require a 2-cent stamp when issued, and if paid subsequent to time interest accrues, additional stamps at rate of 2 cents per $100.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 13, 1898.

SIR: This office is in receipt of your letter under date of December 7, 1898, relative to the amount of stamps required on certificates of deposit. * * *

Demand certificates of deposit, not drawing interest, require only a 2-cent stamp, regardless of the amount.

Certificates of deposit payable on demand, but drawing interest if money is left on deposit for a specified time, require a 2-cent stamp when issued, but if paid subsequent to the time interest accrues, additional stamps at the rate of 2 cents per $100 or fraction thereof must be affixed.

Certificates of deposit payable otherwise than on demand must be stamped at the rate of 2 cents per $100 or fraction thereof, whether they draw interest or not.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. J. DAUGHERTY, *Collector Fifth District, Peoria, Ill.*

CHARTER PARTIES.

(*See also* DECISION 19571, p. 18.)

(19653.)

Charter party.

Barges not included in the term "vessel," in paragraph relating to charter party.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 7, 1898.

SIR: In reply to your inquiry of the 30th ultimo, you are hereby advised that, in the provisions of Schedule A of the act of June 13, 1898, under the head of "Charter party," the word "vessel," as there used, is held by this office not to include barges, which, under the laws of the United States, are not registered, but are merely licensed.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. C. STEVENS, *New York, N. Y.*

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(19823.)

Stamp tax—Charter party.

The tax imposed on charter parties is applicable only to registered tonnage in foreign trade, and does not apply to enrolled or licensed tonnage.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 3, 1898.

SIR: You are advised that in view of the opinion of the honorable Attorney-General, in a letter addressed to the honorable Secretary of the Treasury on the 2d instant, relative to the construction of that part of the war-revenue act under the head of "Charter party," the tax imposed is applicable only to registered tonnage in the foreign trade, either American or foreign bottoms, but does not apply to enrolled or licensed tonnage.

The opinion of the Attorney-General was given in response to a letter from this office based upon an inquiry made by the Lake Carriers' Association, in which it was claimed that vessels engaged in domestic commerce were exempt from this requirement, as the law does not require that their tonnage should be registered. The language of the act is as follows:

Charter party: Contract or agreement for the charter of any ship, or vessel, or steamer, or any letter, memorandum, or other writing between the captain, master, or owner, or person acting as agent of any ship, or vessel, or steamer, and any other person or persons, for or relating to the charter of such ship, or vessel, or steamer, or any renewal or transfer thereof, if the registered tonnage of such ship, or vessel, or steamer does not exceed three hundred tons, three dollars.

Exceeding three hundred tons and not exceeding six hundred tons, five dollars.

Exceeding six hundred tons, ten dollars.

Registered tonnage, under the United States Revised Statutes, Title XLVIII, comprises the tonnage of vessels of the United States employed in foreign trade or the whale fisheries, and enrolled tonnage, under Title L, comprises the tonnage of vessels employed in domestic trade and in the trade on the Great Lakes with Canada over 20 tons, those under 20 tons of this class being termed licensed vessels. It is held that the clause of the war-revenue act above referred to applies only to vessels registered under Title XLVIII of the Revised Statutes and does not apply to vessels enrolled or licensed under Title L, and that when the term "registered tonnage" was used in the war-revenue act it meant nothing more than to apply the law to such vessels as are required to be registered, and that it is a technical term and applies to the particular class of vessels known as registered, in distinction from enrolled vessels and licensed vessels.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. FRANK MCCORD, *Collector Eighteenth District, Cleveland, Ohio.*

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CHECKS, DRAFTS, NOTES, ETC.

(*See also* DECISIONS 19655, p. 252; 19680, p. 225; 19685, p. 115; 19697, p. 226; 19742, p. 228; 19978, p. 118; 20026, p. 63; 20028, p. 64; 20341, p. 24; 20367, p. 164.)

(19523.)

Stamp tax—Checks issued by State officer.

Orders drawn under a State law for the payment of money out of the State funds, and bank checks issued by the treasurer of the State for such payments, are exempt from stamp tax under Schedule A of the act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 18, 1898.

SIR: I have received, through Senator Proctor, your letter of the 15th instant, referring to orders drawn by soldiers on the State treasurer for the extra pay of $7 a month granted by the law of the State of Vermont to volunteers from that State serving in the Army of the United States in the war with Spain, and also to orders of the State auditor upon the State treasurer, under the law, for the payment of State and court expenses, salaries, etc., and to vouchers in the form of receipts for payment, from the State treasury, of sundry distributions among the towns in the State, a large majority of which disbursements from the treasury are through bank checks, and inquiring whether these respective vouchers of payment are subject to stamp tax under Schedule A of the act of June 13, 1898.

In the opinion of this office, neither the orders, vouchers, nor receipts to which you refer, nor the bank checks issued by the State treasurer in payment thereof, are subject to stamp tax under the act of June 13, 1898, as they are issued under the laws of the State and in the exercise only of functions strictly belonging to the State in its ordinary governmental capacity, within the meaning of the exempting provision of section 17 of this act.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. HENRY F. FIELD, *State Treasurer, Rutland, Vt.*

(19556.)

Stamp tax—Checks.

Stamps not required on checks made and issued prior to July 1, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 22, 1898.

SIR: In reply to your letter of inquiry of the 17th instant, you are hereby advised that checks made and issued prior to July 1, 1898, do not require to be stamped under the act of June 13, 1898, even though they are not cashed until after July 1.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. BETTMANN, *Collector First District, Cincinnati, Ohio.*

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(19568.)

Stamp tax—Checks.

Checks made and issued to payee prior to July 1, 1898, are not subject to stamp tax, though presented for payment after that date—Where a check is presented for payment without the requisite stamp, the bank, if it chooses, may affix and cancel the stamp itself, if this is done before payment.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 24, 1898.

SIR: In reply to inquiries addressed to this office by the Front Royal National Bank, of Front Royal, Va., you will please inform them that checks, etc., made and issued prior to July 1, 1898, are not subject to stamp tax under the act of June 13, 1898, though presented for payment after that date. You will also inform them that a bank officer receiving a check on which a stamp is required to be affixed, and which is without the stamp, becomes liable under section 10 of the act, unless at the time of receiving the check the bank chooses to affix and cancel the stamp itself.

The bank has been directed to make application to you for such stamps as they may require under this act.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. PARK AGNEW, *Collector Sixth District, Alexandria, Va.*

(19574.)

Stamp tax—Time checks.

Stamp tax must be paid on checks drawn by officer of a company on the company for payment of workmen.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 25, 1898.

SIR: In reply to a letter addressed to this office, on the 17th instant, by Mr. D. C. Beaman, secretary of the Colorado Fuel and Iron Company, Denver, * * * you will please inform him that the time checks and pay checks (specimens of which he incloses) drawn by an officer or employee of his company upon the company, for the payment of workmen, each one of which contains the words, "Pay to the order of," are not found by this office to be within any exempting provision of the act of June 13, 1898, and therefore stamp tax is required to be paid on such checks issued on or after July 1 next, and the requisite stamp must be affixed thereto.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. W. HOWBERT, *Collector Internal Revenue, Denver, Colo.*

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(19606.)

Stamp tax—Checks and drafts.

Stamping of checks and drafts under act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 29, 1898.

SIR: In reply to your letter of the 20th instant, submitting questions raised by the vice-president of the National Bank of Jacksonville, Mr. Bion H. Barnett, you will please advise him as follows:

1. Checks and drafts made and issued to the drawee prior to July 1 next, though presented for payment after that date, do not require the 2-cent stamp.

2. Where a check drawn subsequently to July 1 is presented at a bank without having the requisite stamp affixed, the bank, if it pays such unstamped check, becomes liable to the penalty provided by section 10 of the act of June 13, 1898.

3. There is no objection, under this act, to the affixing by the bank of the requisite stamp to an unstamped check presented for payment and to the bank's collecting the amount from the drawer or drawee of the check.

4. An inland bill of exchange, within the meaning of this act, is a bill of exchange drawn and made payable anywhere in the United States.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. G. W. WILSON, *Collector Internal Revenue, Jacksonville, Fla.*

(19611.)

Stamp tax—Withdrawals from savings banks.

No stamp required for the withdrawal of money from savings banks by depositors on pass books.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 30, 1898.

SIR: In reply to a letter addressed to this office on the 17th instant by Mr. John B. Price, cashier of the First National Bank, Hazleton, Pa., * * * you will please inform him that no stamp tax is required to be paid on withdrawals of money from savings banks by depositors on pass books, nor upon a receipt or voucher given for such payment.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. T. F. PENMAN, *Collector Twelfth District, Scranton, Pa.*

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(19652.)

Stamp tax—Promissory note.

A judgment note is a promissory note and is required to be stamped as such.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 7, 1898.

SIR: Herewith is returned to you, at your request, the letter addressed to you on the 27th ultimo by Irvine & Co, of Bedford, Pa. (which you referred to me on the 1st instant), wherein they state that a doubt has arisen as to whether a stamp is required under the act of June 13, 1898, Schedule A, on a judgment note, "inasmuch as the law mentions promissory and not judgment notes." You will please advise them that a judgment note, being a promissory note, although not a promissory note of the ordinary kind, is held by this office to be subject to stamp tax under the fourth paragraph of Schedule A of this act.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. BOIES PENROSE, *United States Senate.*

(19654.)

Stamp tax—Check or order.

Any check or order for payment of money drawn on any person requires a 2-cent stamp.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 7, 1898.

SIR: In reply to the inquiry addressed to you by Messrs. Spiers & Davis, which you referred to this office on the 23d ultimo, you will please inform them that the 2-cent stamp is required to be affixed to a check, draft, or order for money drawn by any person upon any other person. This stamp tax is not confined, by the language of Schedule A of the act of June 13, 1898, to checks or orders for money drawn on banks.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. E. C. DUNCAN, *Collector Fourth District, Raleigh, N. C.*

(19683.)

Stamp tax—Checks of disbursing officers.

Official checks of disbursing officers of the Indian Service, drawn by them against public funds, in discharge of duties imposed by law, are exempt.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 12, 1898.

SIR: In reply to the letter addressed to you on the 1st instant by the Acting Commissioner of Indian Affairs, which you referred to this office

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on the 5th instant, you will please inform him that official checks of disbursing officers of the Indian service, drawn by them against public funds, in the discharge of duties imposed upon them by law, do not require the 2-cent stamp.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

The SECRETARY OF THE INTERIOR.

(19693.)

Stamp tax—Checks of public officers.

Checks of officers of a county or municipal corporation, drawn in their official capacity in discharge of duties imposed upon them by law, are exempt from tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 14, 1898.

SIR: In reply to your letter of the 1st instant, addressed to the Comptroller of the Currency, which he has referred to me, you are hereby advised that checks drawn by officers of a county or municipal corporation in their official capacity, in discharge of the duties imposed upon them by law, do not require the 2-cent stamp. The city solicitor, whose views on this point you dispute, is, in the opinion of this office, clearly correct in holding that the first proviso of section 17 of the act of June 13, 1898, exempts these checks from the stamp tax.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

MR. J. F. GRAHAM,
Cashier First National Bank, Woodbury, N. J.

(19696.)

Stamp tax—Checks of postmasters.

Ruling relative to official checks of postmasters.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 14, 1898.

SIR: I have received your letter of the 9th instant, referring to the ruling of this office that official checks of postmasters, drawn in discharge of duties imposed upon them by law, do not require a stamp, and inquiring whether this ruling applies to checks "which a postmaster draws upon a national bank designated as his depository in which the funds of his office are kept—those with which he pays his employees as well as those which are ultimately transferred to the Treasury of the United States"—and which you say "are semiofficial, and should be drawn, if they are needed by the postmaster, with the designation of his office; in other words, they should be drawn by him officially."

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In view of the further facts which you state that "the funds against which the checks are drawn are public funds," and "in drawing upon them to meet public expenditures he exercises only the functions of a public officer," it is held by this office that these checks do not require the 2-cent stamp.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. JAS. N. TYNER,
Assistant Attorney-General for the Post-Office Department.

(19711.)

Stamp tax—Drafts and orders.

Stamps on drafts and orders for payment of money, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 19, 1898.

SIR: Your letter of the 7th instant has been received, submitting the following questions addressed to you by Mr. E. A. Copelan, banker, at Greensboro, Ga.:

Suppose Dr. Rice comes in person to my bank and gives a counter draft made payable to himself, have I the right to honor his draft made payable to himself without requiring him to stamp same?

You will please inform him in the negative. The 2-cent stamp is required to be affixed to this draft and canceled at the time of its presentation.

You will further inform Mr. Copelan that where tickets given to farmers representing the amount due them for cotton or other produce bought of them are presented at the bank and accepted and paid, these tickets require the 2-cent stamp. They are held to be orders for the payment of money within the meaning of the law.

Mr. Copelan says:

We make the calculations, pay the farmer for the cotton, and in the afternoon the buyer comes in and gives us a draft with a 2-cent stamp on same, which closes the transaction.

It is held that this does not relieve the tickets which have been received and paid from the stamp tax.

In reply to three other questions submitted by him, you will please inform him—

(1) That checks drawn by county commissioners or other public officers, whether of the State or of the United States, in their official capacity, upon public funds, in discharge of duties imposed upon them by law, do not require the 2-cent stamp.

(2) Where a mortgage and bill of sale are pledged as security for money loaned, if these securities represent a value not exceeding $1,000, stamp tax is not required to be paid thereon.

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(3) Where a depositor in a bank presents in person his deposit book and receives money thereon, without making out any check, draft, order, or any other writing calling for the payment of money, there is no instrument in existence in the case on which the tax of 2 cents can be required to be paid.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. WM. M. HOWARD,
House of Representatives, Washington, D. C.

(19712.)

Stamp tax—Checks and orders.

The treasurer of savings association issues his check and at the same time an order, which are fastened together and both presented to the bank, one stamp only required.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 19, 1898.

SIR: Herewith is returned, at your request, the letter that you addressed to me on the 15th instant, wherein you say:

It is the practice of the savings associations here to draw up an order for the amount due to parties on the treasurer. The treasurer issues his check on the bank where money is deposited, and the check and order are fastened together and both presented to the bank for money. The whole matter is one transaction and draws but one amount of money. Does the law require that both the order and the check shall have a 2-cent stamp?

You are hereby advised in the negative. The 2-cent stamp on the check, in the case thus presented, is all that is necessary.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. DANIEL ERMENTROUT, *Reading, Pa.*

(19800.)

Stamp tax—Interest coupons.

Interest coupons made in the form of promissory notes, taxable as promissory notes—Where note embraces in its face value both principal and interest, tax imposed on face value—Acknowledgment of instrument does not require stamp—Contract of bargain and sale of real estate taxed as conveyance—Where lease is given to tenant providing for rent payments which are represented by notes, both lease and notes should be stamped—Assignments bear same tax as original instruments.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 1, 1898.

GENTLEMEN: This office is in receipt of your letter of the 14th ultimo, in which a list of questions are propounded by you, as follows:

(1) When a note is taken from farmer leasing land, consideration being crop or currency, but no lease signed, should it be stamped as a

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lease or promissory note?—Answer. The exhibit note submitted under this question is a promissory note, and should be taxed as such.

(2) Should a note secured by mortgage on real estate be stamped as a promissory note in addition to stamp on mortgage?—Answer. Yes.

(3) Should the coupons representing interest on such mortgage note be stamped as promissory notes in addition to stamp on mortgage and principal note?—Answer. The exhibit coupons attached to the mortgage note are taxable as promissory notes.

(4) Should a *separate* note, representing such interest, be stamped as a promissory note?—Answer. This note is taxable as a promissory note.

(5) Should a note representing part payment, by yearly installment, of purchase of real estate, and including in its face both the principal and interest as one amount, be stamped 2 cents per $100 on its face value, or only on the principal amount?—Answer. The note submitted should be taxed on its face value.

(6) Should a note taken in part payment of real estate, payable in cotton, corn, wheat, etc., be stamped, and what amount?—Answer. As you do not submit an exhibit to this question, this office can not advise you in reference thereto.

(7) Should a bond for deed, agreeing to make title to purchaser of land on payment of installments of purchase money, be stamped as "bond," 50 cents, or as a conveyance of real estate according to amount involved, and should both purchasers' and sellers' copies be stamped?—Answer. This instrument is taxed as a bond, 50 cents, and the promissory notes accompanying the same must be stamped.

(8) Should a satisfaction of mortgage be stamped at the rate of 10 cents?—Answer. The satisfaction of mortgage submitted by you need not be stamped.

(9) Should the notary's certificate of acknowledgment be stamped 10 cents in addition to the stamps on a mortgage, deed, satisfaction, assignment, etc., and if more than one (say husband's and wife's), should all be stamped?—Answer. Notarial acknowledgments need not be stamped if the deed or other writing to which they are appended bears a stamp. The acknowledgment to the satisfaction of mortgage hereinbefore referred to should, therefore, bear a stamp.[1]

(10) Is a stamp required on the certificate of record of any deed, mortgage, etc., when recorded, in addition to any other stamps on the document itself?—Answer. No.

(11) If the notary's certificate requires a stamp, would the proof of an instrument by notary's witnessing signature of subscriber with the words "signed, sealed, and delivered in the presence of," or the words "subscribed and sworn to before me." be considered a certificate?—Answer. No.

[1] This has been modified by subsequent rulings, so that no stamp is now required on certificates of acknowledgment to any deed or mortgage, irrespective of the question whether said deed or mortgage requires a stamp or not.

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(12) Where land is sold under a contract providing for payment by installment, notes being given for installments, the purchaser and seller, each having one copy of contract, should both copies be stamped? If so, should they be stamped as a conveyance (title not having passed) or as a contract issued by a broker?—[*Note*—Such contracts are used in connection with notes inquired about under Nos. 4, 5, and 6.]—Answer. The contract that you submit under this inquiry is a contract or bargain by the owner of land, in consideration of money paid and to be paid, to sell land to another person, whereupon a use arises in favor of the latter, to whom the seizin is transferred by force of the statute of uses. You are, therefore, advised that it is such a conveyance that is taxable 50 cents for each additional $500 or fractional part thereof in excess of $500. When copies of the above are given the copy need not be stamped unless it is offered for record, in which case it should be stamped.

(13) Where a lease is given to a tenant providing for rent payments over a period of three or more years, and on payment of last installments of rent, the tenant to have good title on further payment of $1, should both, or only one copy of lease be stamped, and as a lease, as a contract, or as a conveyance; and should the rent notes taken with such lease be stamped as promissory notes?—Answer. The exhibit agreement submitted under this question is a lease of land with a mortgage of personal property; the lease and mortgage should both be stamped, the original only being subject to taxation. The copy should indicate that the original has been stamped thus: Copy. "Original duly stamped." The rent notes submitted with the lease are taxable as "promissory notes."

(14) Is a certificate authorizing an attorney at law to appear on behalf of mortgagee and institute foreclosure proceedings taxable as a power of attorney or as a certificate?—Answer. Not taxable either as certificate or power of attorney.

(15) Where the indorsement of a note in which a vendor's lien is reserved carries with it the lien on the land (as in Texas), does such transfer or indorsement on the back of the note require a stamp similar to an assignment of mortgage?—Answer. You do not submit the form, and this office is unable to advise you.

(16) Should a letter agreeing to extend the payment of a mortgage note or a note given in purchase of real estate be stamped?—Answer. It is the "renewal" that is taxable, and although the conclusive evidence of the renewal is a letter, the peculiarities incident to negotiable paper and the rights and liabilities of innocent third parties without notice of renewal would in the judgment of this office require the stamp to be affixed to the note.

(17) Should an option to sell real estate at a future date for a stipulated consideration be stamped, although given only in the usual course of business correspondence?—Answer. This question is too indefinite to be ruled upon without a sample option being submitted.

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(18) In Georgia, where judgment is obtained against borrower, and the land is reconveyed to borrower for purpose of levying execution, as provided in sections 1869, 1870, and 1871 of the Georgia Code (see form of deed of reconveyance), should such deed of reconveyance be stamped, and should value of stamp be based on amount of loan?—Answer. This deed completely vests title, and should be stamped as a conveyance, the amount of the loan being the basis of taxation.

(19) Should an assignment of such contracts of rent and sale, bond for deed, or other instrument of that nature be stamped, and if so, for what amount?—Answer. If the original instrument was required to be stamped, the assignment or transfer should be stamped, and to the same amount as that imposed on the original.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

CUYLER, MORGAN & CO., *New York, N. Y.*

(19875.)

Stamp tax—Checks drawn on a foreign bank.

Bank checks drawn in this country on a foreign bank subject to the same tax as checks drawn in this country on domestic banks.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 10, 1898.

SIR: Mr. A. B. Hepburn, vice-president of the National City Bank, New York, has written to this office in regard to the stamp tax upon checks or drafts drawn by his bank payable by banks or bankers abroad.

You are informed that this office decides that bank checks drawn in this country on a foreign bank or banker, payable at sight or on demand, are subject to the same stamp tax as bank checks drawn in this country on domestic banks.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

(19931.)

Stamp tax—Debit tickets.

Debit tickets used in lieu of bank checks must be stamped.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 19, 1898.

SIR: Mr. O. V. Hurdle, cashier of the Page County Bank, writes this office that several of the customers of the bank think it is not necessary to give a check in order to get money out of the bank, but insist that

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they can present their bank book and have the cash drawn entered therein, the bank using a debit ticket, a sample of which he incloses, to make the necessary charge upon the books of the bank. He asks, Should this debit ticket have a stamp? He says he thinks it should, and hopes that this office will so hold.

The ticket inclosed by him reads as follows:

Debit *July 13, 1898.*
Jno. Smith.

Cash		10	
Drafts	5 10	15	
H.		$25	00

[Paid July 13, 1898. Page County Bank, Clarinda, Iowa.]

The receipt of Mr. Hurdle's letter has been acknowledged and he has been referred to you. Please inform him that the debit ticket is an order for the payment of a sum of money drawn by an officer or employee of the bank, by direction of the depositor, from funds deposited by said depositor, and as such requires a 2-cent stamp.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JOHN W. KEMBLE, *Collector Fourth District, Burlington, Iowa.*

(19933.)

Stamp tax—Checks.

Checks drawn in a foreign country, but payable in the United States, taxable 2 cents on each $100 or fractional part thereof.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 22, 1898.

SIR: Mr. A. H. Hampton, cashier Citizens' National Bank, Winchester, Ky., writes this office, under date of July 8, to ask if a check drawn in London in favor of a resident of Winchester, Ky., and on a bank in New York, requires a stamp, and if so, whose duty it is to affix and cancel it. * * *

Please inform him that the check is an order for the payment of a sum of money drawn in a foreign country but payable in the United States. The acceptor, before paying or accepting the same, should place thereupon a stamp, indicating the tax upon the same, as the law requires for inland bills of exchange or promissory notes; that is, for a sum not exceeding $100, 2 cents; and for each additional $100 or fractional part thereof, 2 cents. See section 11, act of June 13, 1898, and Schedule A, bill of exchange (inland).

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. S. J. ROBERTS, *Collector Seventh District, Lexington, Ky.*

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(20024.)

Stamp tax—Foreign diplomatic corps.

Exemption from stamp taxes of foreign diplomatic corps residing in this country.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 8, 1898.

SIR: In reply to your personal inquiry of this date, you are informed that, on advice of the Department of Justice, this office holds that the checks and drafts of ambassadors, ministers, or other members of the foreign diplomatic corps residing in this country are exempt from tax when the checks or drafts of a diplomatic agent are made in the course of the conduct of his business as such agent or in connection with expenses incidental to his residence here as such agent.

If, however, such agents become property owners or engage in commerce or trade like other people, then papers which are otherwise subject to tax, made in connection with such ownership of property or in carrying on commerce or trade, should be taxed.

It is so held, not because of any positive and general law on the subject, but upon the ground that it is a courtesy due from one nation to another.

For your further information I may state that, under Article III of the consular convention between the United States and the German Empire, signed December 11, 1871, the respective "consuls-general, consuls, vice-consuls, and consular agents, as well as their chancellors and secretaries, are exempt from all direct, personal, or sumptuary taxes, duties, and contributions, whether Federal, State, or municipal, unless the said consular officers become owners of property in the country or engage in commerce, in which instance they shall be subject to the same taxes and imposts and the same jurisdiction as citizens of the country, property holders, or merchants."

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. ARTHUR T. BRICE,
Cashier Riggs National Bank, Washington, D. C.

(20087.)

Stamp tax—Grain tickets.

"Grain tickets" found not to be used in good faith as receipts, but as checks or orders for the payment of money, and therefore liable to stamp tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 17, 1898.

SIR: Referring to my letter of the 2d ultimo, in regard to a form of "purchase ticket" used by the Spencer Grain Company in their business of purchasing and paying for grain, I have to advise you that the

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matter has been given further consideration in the light of facts reported by Collector J. W. Patterson.

In my letter of the 2d ultimo you were advised that a sample receipt submitted (marked A), which was intended to be signed by the seller of the grain on receipt of the purchase price from the agent of the Spencer Grain Company, was not taxable, "when used in good faith in the manner and for the object intended."

The sample upon which this ruling was based has been mislaid in this office, and therefore can not now be referred to for more critical inspection. It is presumed, however, to have been in one of the following forms now reported to be in use by the Spencer Grain Company, which forms have been furnished by Collector Patterson:

Received of ——— ———, grower; gross lbs. ———; grade ———; kind of grain ———; net bushels ———, at ——— per bushel. Amount ———.

L. N. LOOMIS,
By ——— ———, *Agent.*

Received of L. N. Loomis, ——— dollars, in payment of above grain. * * *

——— ———, *Grower.*

Another form reads:

No. 23. BRITT, IOWA, *9/5, 1898.*

Bought of L. Sheffert, grower, net bu. 6-48 grade 3, grain, wheat, at 40 per bu., $2.70.

SPENCER GRAIN COMPANY,
Per THOS. PENDERGAST, *Agent.*

$2.70.

Received of Spencer Grain Company two and 70/100 dollars in payment of above grain. * * *

LEWIS SHEFFERT, *Grower.*

Prima facie, neither of these forms would appear to be liable to stamp tax as a check or order for the payment of money. But it appears that prior to the enactment of the war-revenue law the Spencer Grain Company had in use for the same purpose a document which was openly and avowedly an order for the payment of money. It was in fact styled "Pay check." It read, "Pay to the order of ———." It did not purport to be a receipt. It was required to be indorsed by the person in whose favor it was drawn, the same as a check.

In a circular letter dated August 13, 1898, through its agents, the Spencer Grain Company instructed them severally to use the new form in place of the old, and the payers of the new "ticket" were cautioned to have the grain growers sign the receipt. It also appears that the Iowa State Register and other newspapers are commenting upon the change in the form of ticket after the following manner:

The Spencer Grain Company was able to get a "ticket" drafted that the revenue authorities have decided does not need a stamp, although it is paid at the banks.

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It appears also that the new form is used exactly as the old; that the tickets are cashed by the banks when indorsed by the party in whose favor drawn, as would be a check of the Spencer Grain Company or its local agent; that the "tickets" are held as vouchers by the banks against the deposits of the company or its agents.

In view of all the facts, this office must hold that the element of good faith in the use of these documents, upon which the former ruling turned, is lacking; that they are in fact checks or orders for the payment of money within the meaning of the war-revenue law; that they are undisguisedly so used, and are, therefore, subject to the stamp tax.

It is assumed that the Spencer Grain Company will now, as promised in their letter of August 30 to Collector Patterson, act upon this decision, and will proceed to collect all of these tickets which have been issued by them, or in their behalf, since July 1, 1898, and will affix stamps to the same.

It is also assumed that all such documents issued unstamped are where they can be gotten hold of by the Spencer Grain Company for this purpose.

Collector Patterson will be instructed to allow a reasonable time for the parties to comply with the law as now construed.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. GEORGE E. CLARKE, *Algona, Iowa.*

(20118.)

Stamp tax—Renewal of note.

Renewal of note does not of itself renew the pledge securing it—Pledge must be specifically renewed to subject it to taxation.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 28, 1898.

SIR: I am in receipt of your letter of August 22, 1898, in which you inclose an inquiry made at the request of Mr. R. H. Balke, of your city. This inquiry, presented by Mr. Balke, is in relation to a renewal of a note for $10,000, which was secured by a warehouse receipt for 1,000 barrels of whisky. This note is dated July 23, 1898, and the maker desires to renew it. Mr. Balke inquires, What is the tax imposed on this transaction?

You will inform him that the renewal of the note is subject to a taxation of 2 cents on each $100 of face value or fraction thereof. If the pledge is renewed, it is also subject to taxation, but the renewal of the note does not of itself renew the pledge. If there is no specific act of

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renewal in relation to the pledge, it is not subject to taxation on the renewal of the note.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

MR. CHAS. E. SAPP, *Collector Internal Revenue, Louisville, Ky.*

(20155.)

Stamp Tax—Transmission of public funds by postmasters.

No tax under war-revenue act of June 13, 1898, on transmission of public funds by postmasters.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 6, 1898.

SIR: I have received your letter of the 20th ultimo, calling attention to a variance in the rulings of this office with reference to drafts issued in favor of postmasters, my letter of July 8, 1898, addressed to you, having held that drafts drawn by a national bank upon another national bank or private bank, or by a private bank upon another private bank, as authorized by section 4046, Revised Statutes, through which postmasters remit the funds belonging to the United States from one point to depositaries at another point, do not require a stamp under the war-revenue act; whereas, in my letter of August 31, 1898, addressed to the cashier of the Iowa National Bank, in reply to an inquiry of his as to whether a check transferring Government funds from the postmaster at Monticello to the United States depositary at Davenport required a stamp, it was held that a stamp was required thereon.

The ruling set forth in my letter to you of July 8, with reference to drafts drawn in favor of postmasters must be confined to such drafts as are drawn by disbursing officers or other Government officers in favor of postmasters, or drafts drawn by a bank in favor of postmasters in the transmission of funds belonging to the United States from one point to another. In the latter case the draft should state expressly on its face that the moneys thus transmitted are "United States funds." It is not extended to checks or drafts in favor of postmasters by private persons. Every check or draft drawn by a private person in favor of a postmaster should bear a 2-cent stamp, and postmasters should be instructed not to receive checks or drafts of this kind from any person or from any bank unless the requisite stamp has already been affixed thereto and duly canceled.

Any ruling at variance herewith is to be regarded as modified in accordance with this letter.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

THE ASSISTANT ATTORNEY-GENERAL
FOR THE POST-OFFICE DEPARTMENT.

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(20192.)

Stamp tax—Receipts of depositors.

Receipt for money is an acknowledgment of payment—Receipts used by depositors to withdraw money from bank, in place of checks, are held and relied upon as an order for payment of money and must be stamped—Privileged occupation as a "banker" involves reciprocal obligation to restrict the instruments upon which money is paid to such as are specified in the law to be used for that purpose.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 12, 1898.

SIR: Mr. L. P. Hillyer, cashier of the American National Bank of Macon, Ga., in a letter to this office, under date of the 19th ultimo, inclosed a letter dated September 16, 1898, from Mr. C. M. Ticknor, cashier of the Commercial Bank of Albany, Ga., who asks whether receipts used by depositors to withdraw money from bank in the place of checks are subject to taxation. Mr. Hillyer asks for an answer to this inquiry, such as he could publish in circular form and send to all the bankers of the State. He is secretary of the State Bankers' Association.

Mr. Ticknor instances the case of savings banks, and states that the president of his bank thinks it has as much right to pay money over the counters on receipts as he has in his warehouse business. He states that they understand that when these receipts go into second hands they become subject to tax, but where the customer draws it in person they know of no law that could compel him to draw a check. He states that this stamp tax falls heavily upon the bank at this season of the year, when the countrymen usually come to town, sell their products, and deposit proceeds, but that now 75 per cent of them take the money home with them instead, and that the object of his bank is to save the expense incurred in drawing checks to small depositors, women, and country people by use of receipts, while, he states, commercial people, of course, will have to pay it.

In regard to this matter, I have to say that savings banks which have made a regular custom of making entries upon the pass books of their depositors, when withdrawals of money are made, do not become liable to taxation upon continuance of this course, as the tax is imposed only upon the bank check, draft, or certificate of deposit not drawing interest, or order for the payment of any sum of money at sight or on demand.

The use of a receipt for the withdrawal of money by a depositor, or one to whom he might issue the same, involves different facts. The legal definition of a receipt for money is that it is an acknowledgment of payment or delivery, and it follows therefore that when given to a bank in exchange for the amount named therein and paid him from funds held at his disposal, it is accepted as an order for payment, certainly implied if not directly expressed, as otherwise it would not be taken in exchange for money paid on its presentation.

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The purpose of the law is to require stamps on checks which are, commercially, negotiable instruments. A check, however, is not required to be in any particular form. If it is in a form sufficient to constitute an order for the payment of money, and assumes the character of negotiability, then it is subject to tax. When a bank takes a receipt from a depositor in exchange for payment of money, the paper being retained by it as its authority for making the payment and as its evidence of payment, relying upon it as constituting an order to pay out the amount named therein, it is held by this office that such an instrument is subject to the tax of 2 cents upon an order for the payment of money, and the bank which believes otherwise and takes the risk of transacting business in this manner without payment of stamp tax must do so upon its own responsibility, and hold itself subject to proceedings to compel payment of tax claimed to be due and the recovery of penalties provided under section 10 of the war-revenue law.

If a depositor issues his receipt so that it would be good in the hands of another person to draw upon his deposit for the amount of it, then, as a negotiable instrument, it loses the character of a receipt and becomes a check or draft, and is subject to the tax without any question.

The president of the Commercial Bank may be assured that his relations to the law are entirely changed when, as a hardware merchant, he leaves one vocation, over which the Government exercises no control, and as a banker enters upon another, privileged by the Government to him upon payment of a special tax, as "a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order." His reciprocal obligation will prevent him from payment of money on deposit, as a banker, only upon the "draft, check, or order," which the law specifies are to be used in the business he is then carrying on, and which are subject to tax, and when, as a banker, he accepts a receipt for payment of money on deposit, it must be construed as an order, and is subject to tax as above set forth.[1]

Please furnish to Mr. Hillyer, secretary of the State Bankers' Association, a copy of this letter, and advise him that it is believed the banks of his State will have no difficulty in deciding for themselves whether or not the methods they are adopting in the transaction of their business are subject to taxation. They must be aware that under the provisions of section 7 of the act of June 13, 1898, the responsibility to stamp instruments subject to taxation is placed alike upon the persons who make, sign, or issue, and those who cause the same to be made, signed, or issued, and that by the provisions of section 10 above referred to a penalty is imposed upon any person who shall accept or pay *any* order for the payment of money without the same being duly stamped.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

MR. HENRY A. RUCKER, *Collector Internal Revenue, Atlanta, Ga.*

[1] This has been modified by subsequent decisions.

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(20231.)

Stamp tax—Receipts.

Liability to stamp tax of receipts used in lieu of bank checks.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 21, 1898.

SIR: I have to acknowledge the receipt of your letter of the 20th instant, in which you request the ruling of this office as to whether a receipt in the following form—

$—— LANCASTER, S. C., ——.

Received of the Bank of Lancaster, of Lancaster, S. C., —— dollars on account.

—— ——.

filled out in the handwriting of an official of the bank and signed by the depositor on calling for and receiving the money, is liable to stamp duty.

In reply, you are advised that, in accordance with the advice of the Attorney-General, this office holds that a receipt given to a bank by a person to whom the bank is indebted as a depositor or otherwise, or for whom it holds funds, is no more subject to a stamp than a receipt given for any other debt or demand.

The purpose of the law is to require stamps upon checks, which are commercial negotiable instruments. A check, however, is not required to be in any particular form. If it is in a form sufficient to constitute an order for the payment of money and assumes the character of a commercial negotiable instrument, then it is subject to the tax.

There is much banking done, especially in savings banks, without the use of checks at all, the depositor having a book in which the bank denotes the amounts deposited on one side and the amounts drawn out on the other. Of course, the depositor in such case draws the money out of the bank, but he does it in such a way as not to be subject to stamp duty, because he does not give a check. So, if a person does not give a check he does not have to pay tax, and if he goes to the bank and the bank pays him upon its dues to him and he gives a receipt, such receipt does not require a stamp; but if he issues his receipt so that it will be good in the hands of another person to draw upon his deposit for the amount of it, then it loses the character of a receipt and becomes a check or draft, and is subject to tax.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

CASHIER, BANK OF LANCASTER, *Lancaster, S. C.*

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(20239.)

Stamp tax—Grain tickets.

Grain tickets paid by private persons under contractual relations to pay same, taxable as orders for the payment of money.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 24, 1898.

SIR: This office is in receipt of your letter of October 6, 1898, inclosing a letter from Deputy Collector Wells, of Sparta, Wis., under date of October 4, 1898. This letter is written in reference to the taxability of grain tickets as orders for the payment of money. He refers to decision No. 20087, page 100, in which a ruling is made in regard to the taxation of the Spencer Grain Company's tickets. The difference between this case and the Spencer Grain Company's case is that these grain tickets were cashed by the bank in the latter case, while in the case submitted by Deputy Collector Wells they are cashed by private persons in each village where the W. W. Cargill Company has an elevator. This company sends out men to buy grain to be sent to the elevator, and they make a contract with a merchant to cash these grain tickets when properly computed and presented, and with this person the Cargill Company have monthly settlements, when they reimburse the person for paying the tickets, and, in addition, pay him a compensation for his service, and the question is, Are these tickets subject to taxation when the party with whom the contract is made cashes them?

This office has ruled that where the employee of a company pays a ticket similar to this it is not subject to taxation, although the paying office may be located in another place from the factory or elevator. The employee's act is considered to be the act of the employer, and therefore it would not be an order for the payment of money payable by a third party. There is a difference in law between the payment by the employee and the payment by the person under contract, the specific object of the contract being the payment of these tickets. It is true that this contractual relationship is not entered into with a banking institution, but this does not alter the situation.

Here is the situation as understood by this office: A, who is in the grain business, has his central office in the town of ———. He has scattered throughout the country a number of grain elevators, and in connection with these elevators he has buyers who go out and buy the grain. It is sent to the elevator and the grain ticket is made out. The seller of the grain then takes this grain ticket to B, who is a merchant, a broker, or any other person who has entered into contractual relations with A to pay these tickets. There is a decided difference between B under the contract and an employee of A, who might cash the ticket. This office therefore holds that whenever these tickets are presented

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for payment to one under contractual relations with the person, firm, or corporation engaged in the grain business they are subject to taxation as orders for the payment of money, no matter what the form of the ticket is.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. M. F. BLUMENFELD, *Collector Second District, Madison, Wis.*

(20312.)

Stamp tax—Time checks.

When time checks become taxable.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 9, 1898.

SIR: The statement of account inclosed by you in your letter of the 31st ultimo, and styled by you as a "time check," is a statement of account made by a contractor showing the balance due to a workman or employee. It is marked "Not transferable," and if that is strictly adhered to it does not require a stamp. If in any case it passes from the workman or employee to a third party, it is taxable as an order for the payment of money.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. VON BAUMBACH, *Collector Internal Revenue, St. Paul, Minn.*

(20375.)

Stamp tax—Cotton tickets.

Cotton tickets O.K.'d by a buyer, and paid with buyer's money in hands of third party, exempt from taxation.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 26, 1898.

SIR: This office is in receipt of your reply, indorsed on the back of a letter from this office to you dated November 19, 1898, the subject of the correspondence being the exemption from taxation of cotton tickets presented for cashing under certain circumstances.

After a careful review of this subject this office is of the opinion, and so holds, that where a buyer of cotton deposits with a third person a sum of money, out of which this third person is directed to pay all cotton tickets O.K.'d by the buyer, the tickets cashed under these circumstances are exempt from taxation as orders for the payment of money. In order to come within this ruling the buyer must actually place the money with the person who cashes the ticket, and the ticket must be then actually cashed out of the buyer's own money, and no

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other. This would not include the payment of tickets by a bank out of the funds of its depositors, nor payment of tickets in the hands of persons to whom they have been transferred by the cotton seller.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. JAMES K. JONES, *Washington, D. C.*

(20463.)

Stamp tax—Checks.

Checks used in lieu of promissory notes must be stamped at the rate of 2 cents per $100.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 27, 1898.

SIR: This office has been informed that some of the banks in New York City are loaning money to parties, taking as an evidence of the debt an uncertified check for the amount advanced, the loan, of course, being secured by collateral. This is certainly an evasion of the law, and you are hereby instructed to send a letter to the Clearing House Association of New York City, asking them to advise the members thereof that the method above described must be discontinued.

A check used as a promissory note is an acknowledgment of a debt, and must be stamped accordingly—that is, at the rate of 2 cents per $100 or fraction thereof—and if the collateral pledged as security for such a debt is pledged specifically for this one loan, then the pledge of collateral is subject to taxation on the amount of the loan in excess of $1,000 at the rate provided in the paragraph of Schedule A relating to pledge or mortgage.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

CIGARS.

(*See* TOBACCO, CIGARS, AND SNUFF.)

CHEWING GUM.

(19879.)

Retail dealers in chewing gum.

Retail dealers not permitted to remove chewing gum from original stamped packages and place same in show case.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 10, 1898.

SIR: This office has received a letter, dated 4th instant, from the Colgan Gum Company, Louisville, in which they ask whether chewing

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gum can be removed by retail dealers from the original stamped packages and placed in a show case provided for that purpose. They also ask whether samples of chewing gum, for salesmen or for free distribution, can be sent from the factory without being stamped. * * *

You will advise them that chewing gum must be sold at retail from the original packages, and that retail dealers will not be permitted to remove the gum from the original stamped packages and place the same in the show case. There is a wide difference between a chewing-gum vending machine and a show case. The gum may be sold and delivered directly from the machine without assistance from any person, and the regulations relating to vending machines do not apply to show cases, and you will so advise the company.

There is no regulation permitting the manufacturer to distribute free samples of chewing gum upon which tax has not been paid.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. C. E. SAPP, *Collector Fifth District, Louisville, Ky.*

(20258.)

Chewing gum—Destruction of stamps before reuse of cases.

Glass cases, when emptied, may be reused for packing chewing gum, the stamps first affixed to the packages to be destroyed before the case is reused.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 25, 1898.

SIR: This office has received your letter of the 22d instant, inclosing one from Mr. Charles Stark, 26 West Court street, Cincinnati, in which the question is asked whether a manufacturer will be permitted to reuse a glass case for packing chewing gum, the stamp first affixed to such package to be destroyed before the case is reused.

In reply, you are advised that there is no general or special provision of law which requires that a package containing chewing gum when emptied can not be reused for the same purpose for which it was originally intended. The act of June 13, 1898, under section 21, provides a penalty for reusing stamps. If the stamps first affixed to packages are first obliterated and destroyed, the office, as at present advised, sees no objection to the manufacturer reusing the packages and restamping the same according to the retail value of the gum put up therein before removal of the package from the place of manufacture.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. B. BETTMANN, *Collector First District, Cincinnati, Ohio.*

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(20369.)

Chewing gum.

Manufacturers of chewing gum are not privileged to remove the same from stamped packages and repack it in unstamped packages for the use of their salesmen for distribution by them as free samples, or for any other purpose. The removal of samples from stamped packages and placing the same in other packages will be in violation of the object of the statute requiring a stamp, and of section 23, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 22, 1898.

SIR: This office has received your letter of the 18th instant, in which you state that the American Association of Chewing Gum Manufacturers hold that a manufacturer may take partial packages containing chewing gum and distribute them among their salesmen as samples, thus relieving them from carrying a full package, and you ask to be advised whether this will be contrary to the law, act of June 13, 1898, and regulations.

The regulations prescribe that samples for salesmen, or for mailing, or for free distribution, shall be taken only from packages which have been duly stamped, and section 23 of the act aforesaid provides that "manufacturers shall, at the end of each and every month, make, sign, and file with the collector of internal revenue a declaration in writing that no such article or commodity has during the preceding month been removed from the place of manufacture other than such as have been duly taken account of and charged with the stamp tax," and it is assumed that manufacturers have complied with the law in this respect and taken their samples from packages the tax on which had been paid, as evidenced by stamps affixed to such packages before the samples were removed therefrom.

The removal of samples from stamped packages and placing the same in other packages for the use of salesmen would be in violation of the object of the statute requiring a stamp. All goods upon which a tax is required to be paid by stamp, found upon the market or in the hands of any person other than the manufacturer at the place of manufacture, will be subject to forfeiture to the United States.

The presence of the stamp is prima facie evidence that the tax on the article has been paid by the person whose initials appear in the cancellation of the stamp.

The absence of a stamp upon a package containing an article upon which a tax is levied by law is prima facie evidence that the tax has not been paid, and such article being separated from the original stamped package is a violation of the object of the law requiring stamps. Such package would not be protected, and the goods would be subject to forfeiture. Therefore, the office holds that manufacturers of chewing gum have no right to remove chewing gum from stamped packages and

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repack the same in unstamped packages and deliver these packages to salesmen or other persons. The identity of the taxable article is lost whenever it is removed from the original package, and the person having such article in his possession for sale, or for distribution as free samples, will be deemed guilty of a misdemeanor under section 20 of the act of June 13, 1898, and subject to the penalties imposed by that section, as having removed, for consumption or sale, an article upon which a tax is imposed by that act without affixing thereto an adhesive stamp denoting the payment of the tax.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. J. M. KEMBLE, *Collector Fourth District, Burlington, Iowa.*

(20371.)

Spruce gum.

Spruce gum, when intended for sale as a chewing gum, is subject to a tax of 4 cents on each retail dollar's worth, and 4 cents for each additional dollar or fractional part thereof.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 22, 1898.

GENTLEMEN: This office has received your letter of the 17th instant, in which you ask whether spruce gum that has been cleaned is required to be stamped.

In reply you are advised that if it is your intention to retail the gum as a substitute for chewing gum it is subject to tax in your hand at the rate of 4 cents on each retail dollar's worth. To each box, jar, carton, or other package containing chewing gum of not more than one dollar of actual retail value a 4-cent stamp is required to be affixed. If such package exceeds one dollar of retail value, for each additional dollar or fractional part thereof an additional 4-cent stamp shall also be affixed.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Messrs. BROWN & PERRIN, *Potsdam, N. Y.*

CIRCUSES.

(*See also* EXHIBITIONS AND SHOWS; and DECISIONS 19799, p. 267; 19830, p. 148; 19960, p. 150.)

(19602.)

Special tax—Circus.

Special taxes required to be paid by small theatrical companies as well as circuses and other exhibitions.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 28, 1898.

SIR: In reply to the inquiries addressed to you on the 18th and 24th instant by Mr. C. W. Burkart, of Seymour, Ind., * * * you will

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please inform him that the special tax imposed by paragraph 7 of section 2 of the act of June 13, 1898, applies * * * to a circus * * * therein specially referred to.

This act goes into effect July 1, but a company not giving any performance in that month, but * * * at a later period, say, in the month of September, is only required to pay the special tax reckoned from the 1st day of September to the 1st day of July following, at the rate of $100 (sec. 3237, Rev. Stat.).

The full special tax of $100 is required to be paid by a circus * * * when it gives a performance in the month of July. If no performance is given until a later month, the amount of special tax is to be reckoned from the first day of the month in which this liability began to the 1st day of July following, as hereinbefore stated. The full amount of special tax thus found due must be paid at once. It can not be received in installments.

Return thereof must be made and the special tax paid to the collector of the district in which such performance is first begun. A special-tax stamp will then be issued by him; and this stamp will answer for the company in any other collection district within the same State in which it is issued, in view of the special provision for this purpose contained in the statute.

* * * * * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. F. M. GRIFFITH, *House of Representatives.*

(19761.)

Special tax—Circuses.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 26, 1898.

SIR: Your letter of the 22d ultimo has been referred to this office, relating to the special tax of $100 imposed upon circuses by the provisions of paragraph 7 of section 2 of the act of June 13, 1898.

The terms of the law are such as to require the payment of this special tax for all shows traveling in the United States and coming within the definition of a circus therein given, viz, that "every building, space, tent, or area where feats of horsemanship or acrobatic sports or theatrical performances are exhibited shall be regarded as a circus."

If, as you suggest, this "will surely create a monopoly and practically prohibit all small shows," such result can not be prevented by any ruling of this office.

The further provision "that no special tax paid in one State, Territory, or the District of Columbia shall exempt exhibitions from the tax

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in another State," etc., leaves no room for construction; and it must, therefore, be held that when a circus, exhibiting in the month of July in any State, has paid the special tax of $100, which this statute requires shall be paid, and in the following month goes into another State, special tax, at the rate of $100, reckoned from the first day of August to the first day of July following (under the provisions of section 3237, Revised Statutes, as amended, which apply to the new special taxes as well as to all others under the internal-revenue laws) must be paid, and the requisite special-tax stamp for that State must be taken out accordingly; and so on for every other State in which, during the year, the circus performances are exhibited.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. CHARLES C. WILSON, *Charleston, W. Va.*

(19944.)

Special tax—Show under canvas.

A show under canvas exhibiting, among other things, acrobatic and athletic exercises, but no feats of horsemanship, and having no menagerie, is not subject to special tax as a circus ($100) under paragraph 7 of section 2, act of June 13, 1898, if the acrobatic exercises are so few and simple as to make it unreasonable to hold that they constitute the show a circus.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 24, 1898.

SIR: Your letter of the 16th instant has been received, inclosing a letter from Mr. J. L. Fusner, manager for Fusner Brothers, 128 Liberty street, Allegheny City, inquiring whether they are to be compelled to pay the same amount of special tax as a circus for a "small show under canvas, consisting of acrobatic and athletic exercises, but containing no riding acts or feats of horsemanship, and no menagerie."

You will please inform them that if the acrobatic exercises to which they refer are elaborate or extensive enough to bring them within the meaning of the words "acrobatic sports," in the sixth paragraph of section 2 of the act of June 13, 1898, they must pay special tax as a circus under that paragraph. But if these acrobatic exercises are so few and simple (such as a mere trapeze performance or the like) as to make it unreasonable to hold that they constitute the show a circus within the meaning of that paragraph, then and in that case the show may be regarded as coming within the terms of paragraph 8, and as, therefore, subject only to the special tax of $10 for each State in which they exhibit.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES S. FRUIT, *Collector Twenty-third District, Pittsburg, Pa.*

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(19975.)

Special tax—Circus.

A small wagon show having no "circus feats," but only "such acts as trapeze, wire walking, trained ponies, singing, and dancing," is not to be regarded as a circus within the meaning and intent of paragraph 7 of section 2, act of June 13, 1898. It is a show coming under the eighth paragraph, for which the special tax of $10 is required to be paid.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 30, 1898.

SIR: With reference to the case of Sun Brothers, about which you recently wrote to this office, and in reply were advised that, from the printed advertisements sent out by them (a specimen of which you inclosed with your letter), it appeared that their show was a complete circus, for which the special tax of $100 was required to be paid under paragraph 7 of section 2, act of June 13, 1898, you are now informed that a letter received from Sun Brothers, dated the 20th instant, states that they "have no circus or circus feats," but "have such acts as trapeze, wire walking, trained ponies, singing, and dancing," and "have nothing you see on bill" distributed by them, which they receive "from large printing houses and use up in job lots."

Their show, they further state, is a "small wagon show," appearing only in "small towns," the charge for admission to which is "10 and 25 cents."

Upon these facts you are hereby advised that the special tax of $100, under paragraph 7, is not required to be paid for this show. It is held that it can not properly be regarded as a circus within the true meaning and intent of that paragraph, but that it is among the other public exhibitions or shows contemplated by paragraph 8 of that section, for which the special tax of $10 is required to be paid in each State.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. H. L. HERSHEY, *Collector Ninth District, Lancaster, Pa.*

COLLATERAL SECURITIES, PLEDGING OF.

(19685.)

Stamp tax—Pledging of stock certificates.

Stock certificates given as collateral on notes—Renewal of notes—Pledges of notes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 13, 1898.

SIR: I reply as follows to the questions presented in your letter of the 8th instant:

Where stock certificates are given as collateral on notes, stamps are not required on these certificates as in a case of actual transfer; but

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they are to be stamped as a pledge for the amount for which they are hypothecated. On each renewal of the note, while the note must be stamped anew, new stamps are not required on the certificates remaining pledged as before.

In the event of a bill of sale of the certificates used as collateral being attached thereto, it seems that this must be regarded as a transfer of the certificates, and that the tax of 2 cents on each $100 of face value or fraction thereof must be paid, and the requisite stamp affixed thereto. But the successive renewals of the notes do not require the stamping anew of the bill of sale of the certificates.

Where long-time notes, dated previous to July 1, 1898, secured by a deed of trust, are used as collateral on commercial paper, the deed of trust and the notes are required to be stamped, not on the basis of their face value, but on the amount for which they are pledged (that is to say, the memorandum of their pledge must be so stamped). This pledge of notes and deed of trust (remaining the same as at the beginning) does not require to be stamped again because of the successive renewals of the note for which they are held as collateral.

In the particular case to which you refer, wherein you "have a note secured by deed of trust or mortgage on real estate made two years ago, covering not only the original note but any successive renewals," it is held that on the next renewal of the note the pledge of the deed of trust to secure it (which pledge remains as originally made, prior to July 1, 1898, without any renewal) does not require a stamp, although by express provision of the statute each renewal of the note on or after July 1, 1898, must be duly stamped.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. W. PATTERSON,
Cashier of the Dollar Savings Bank, Wheeling, W. Va.

(19736.)

Stamp tax—Securities pledged for loans.

When certificates of stock or other securities are pledged for a loan, the stamp tax is to be reckoned, not on the face value of the certificates (or securities), but on the amount of money loaned (above $1,000).

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 20, 1898.

SIR: I have received your letter of the 18th instant, presenting the following question for a ruling as to stamp tax under Schedule A of the act of June 13, 1898, viz:

Suppose I want to borrow some money, and I offer as collateral security certificates of stock in a corporation that were dated one or more

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years previous to the passage of the war-revenue law, is it necessary that those certificates should be stamped?

In reply, you are hereby advised that under that paragraph of Schedule A of the act relating to "mortgage or pledge," the memorandum of the pledge of the certificates to which you refer as collateral security must be stamped, if the debt secured exceeds $1,000. The stamp tax, however, is to be reckoned, not on the face value of the certificates of stock pledged, but on the amount of the money loaned thereon.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. HULLIHEN QUARRIER, *Wheeling, W. Va.*

(19841.)

Stamp tax—Pledge of insurance policy to secure loan.

Pledge of insurance policy to secure loan not taxable if the amount secured is less than $1,000. If loan exceeds $1,000, it is taxable as a pledge of personal property—Pledge of insurance policy not such an assignment as requires a stamp at the same rate as imposed on the original instrument.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 6, 1898.

SIR: This office is in receipt of your letter of July 20, 1898, asking, "When a policy of life assurance, say for $5,000, is assigned to secure a note of $500, what amount of revenue stamps is required in such a case?"

In reply to your inquiry, this office is of the opinion that in the above-mentioned case the pledge of the policy of the life insurance, being for the sum of $500, is not taxable under the clause of Schedule A taxing mortgages or pledges of personal property, the amount of the pledge being less than the minimum amount taxable.

The assignment of a policy of life insurance in this case to secure a pledge is not an assignment of the instrument such as is contemplated in the provisio of said clause, and does not require a stamp to the full amount that was put upon the original instrument, nor in this case to any amount.

When a policy of life insurance is assigned as collateral security for a loan exceeding $1,000, it should be stamped as a pledge according to the amount of the debt secured, and not according to the face of the policy.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JOSEPH BOWES,
Manager Equitable Life Assurance Society, Washington, D. C.

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(19978.)

Stamp tax—Notes, pledge of stock as collateral, etc.

Stamp tax is required on the notes, on the pledge or memorandum of pledge (if the amount secured thereby exceeds $1,000), and on the renewal of the notes; but not again on the pledge, if it remains as at the beginning, without formal renewal.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 30, 1898.

SIR: Mr. N. B. Stearns, cashier of the Manchester National Bank, New Hampshire, has written this office, under date of the 11th ultimo, regarding stamp tax on a note secured by a certificate of stock pledged as collateral, and the renewal of said note.

In reply, you will please inform him as follows:

For illustration, if one executes a promissory note to a bank and secures same by shares of stock by delivering a certificate indorsed in blank to the bank, in such a case the note should be stamped for the required amount as a note, and the memorandum of pledge (accompanying the securities) should, in addition, have the stamp affixed, as required by a pledge of personal property to secure payment of the note (if the amount of the note exceeds $1,000.)

The pledge of stock as collateral should not be stamped as a memorandum of sale, because it is not a sale, and the title of the stock does not pass out of the person owning and pledging it until the condition arises, and it is disposed of by the holder, in accordance with the terms of the condition.

At each renewal of the note the new note should be stamped; but if the old collateral, as originally pledged, without any formal renewal of the pledge, remains in the possession of the bank, additional stamp tax is not required to be paid thereon.

Respectfully yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES A. WOOD, *Collector, Portsmouth, N. H.*

(20193.)

Collateral securities and instruments used therein, pledging of.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 13, 1898.

To collectors of internal revenue:

The appended opinion of Hon. James E. Boyd, Assistant Attorney-General, relative to the pledging of collateral securities and the instruments used therein, is published for the information of all concerned.

N. B. SCOTT, *Commissioner.*

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[Opinion of Attorney-General.]

DEPARTMENT OF JUSTICE,
Washington, D. C., September 21, 1898.

The SECRETARY OF THE TREASURY.

SIR: I have the honor to acknowledge receipt of yours of 30th of August, ultimo, in which you submit certain papers and instruments and request my opinion as to the stamp required under the provisions of the war-revenue act.

The first question is as to the stamp required upon a note and instrument as follows:

No. —— $100,000.

CHICAGO, ——, 189—

On demand, ——, I, ——, promise to pay to the order of The Northern Trust Company, at its office in Chicago, one hundred thousand dollars for value received, with interest at the rate of —— per cent per annum after date.

—— ——

—— ——

Accompanying this note, and upon the same paper, is the following instrument:

I, —— ——, have deposited with and pledged to said The Northern Trust Company, as collateral security for the payment of above and foregoing note and all other liabilities of the undersigned to said trust company or its assigns heretofore or hereafter contracted, the following property, viz:

One thousand shares of Chicago and Northwestern Railway Common Stock, the market value of which is now $——. In case said trust company, or any of its officers, agents, or assigns, shall at any time be of opinion that said property is of less value than above stated, or that the whole or any part of said property has declined or may decline in value, or in case any liability or liabilities of the undersigned to said trust company, or its assigns, shall be at any time increased, then in all, any, or either of said cases said trust company, or its assigns, may, in its or their discretion, call for additional security, satisfactory to the holder of said note, and failure to furnish the same before 12 o'clock noon of the day next after the day of such call shall make said note and all other liabilities of the undersigned to said trust company, or its assigns, without notice or demand, at once due and payable. Said call for additional security may be made by giving any of the undersigned oral or written notice thereof, or by leaving written notice thereof at any office, place of business, or usual abode of any of the undersigned. The undersigned hereby give said trust company, or any of its officers, agents, or assigns, irrevocable power to sell said property, or any part thereof, without advertising or demanding payment, or giving notice at public or private sale or sales, or at any broker's board, in case said trust company, or any of its officers, agents, or assigns, shall at any time be of the opinion that said property, or any part thereof, has declined or may decline in value, or is or may be of less value than above stated, or in case such additional security, if called for, shall not be furnished as above provided, or in case said note, or any other liability or liabilities of the undersigned to said trust company, or its assigns, shall not be paid at maturity. If said sale or sales shall be public or at any broker's board, said trust company, or its assigns, may purchase said property, or any part thereof, at such sale or sales. The net proceeds of such sale or sales after payment of all expenses and attorney's fees growing out of or connected with said property and the sale and delivery thereof may be applied upon all or any of the liabilities (whether due or not) of the undersigned to the holder of said note, and the surplus, if any, shall be paid to the undersigned. If the net proceeds of such sale or sales shall not pay in full all the liabilities of the undersigned to said

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trust company, or its assigns, then all such liabilities remaining unpaid shall at once become due and payable, and bear interest at the rate of 7 per cent per annum from the time of such sale. In case of any exchange of, or substitution for, or addition to said property, or any part thereof, the provisions of this agreement shall extend to such new, exchanged, substituted, or additional property. And the undersigned hereby authorize said trust company, at any time, at the discretion of any officer or agent thereof, to apply any money or moneys which said company may have or hold on deposit or otherwise for the undersigned, toward the payment of said note and other liabilities, whether due or not. The word liabilities herein shall include all liabilities of undersigned, whether of same class as said note, or otherwise, and whether of undersigned alone or jointly with others. The undersigned hereby expresly empower said trust company, at its option, to subscribe for, take and hold as additional collateral to any and all of the indebtedness above named all stock-increases and stock and other special dividends which may be made upon collaterals held hereunder.

——— ———.

———. ——— ———.

The stamp required upon this promissory note is easily determined, the law being that upon promissory notes a stamp is required of the value of 2 cents for a sum not exceeding $100, and for each $100 or fractional part thereof in excess of $100, 2 cents.

The paper following the note presents two phases: In the first place, it is a pledge of certain specific personal property described therein, as security for the payment of the promissory note for $100,000. It, therefore, requires a stamp as a pledge of personal property for the payment of a definite and certain sum of money, to wit, the sum of $100,000. The actual value of the 1,000 shares of Chicago and Northwestern Railway Common Stock, which is deposited and pledged, is not stated, but if it were it would not be material, for the stamp required upon a mortgage or pledge of property given to secure the payment of a definite and certain sum is governed by the sum secured to be paid, and not by the actual value of the property included in the mortgage or pledge. For instance, if A borrows from B $5,000, and gives a note for it to B, and at the same time executes a mortgage or pledge as security for its payment upon property worth $50,000, the stamp upon the mortgage or pledge would not be estimated by the actual value of the property, but by the amount secured to be paid, as set forth in the face of the mortgage or pledge. So, then, the note for $100,000, and the paper executed in conjunction with it, pledging the stock described as security for the payment, do not, so far as I can see, present any difficulty in arriving at the stamp required to be placed thereon under the provisions of the war-revenue act.

As before stated, in the first place, the 1,000 shares of railroad stock are deposited and pledged to the Northern Trust Company as security for the payment of the above and foregoing note,, meaning the note for $100,000. Then follows the stipulation in these words, "and all other liabilities of the undersigned to said trust company, or its assigns, heretofore or hereafter contracted." This presents the second phase of the instrument, and it is the one from which the principal question arises. The provision of the war-revenue act is that a mortgage or pledge of property made as security for the payment of any definite and certain sum of money, lent at the time, or previously due and owing, or forborne to be paid, being payable, * * * shall be stamped, etc.

The stipulations in the instrument, aside from those which make it a pledge for the payment of a definite and certain sum, are in the nature of a guarantee for unliquidated debts or for liabilities to accrue in future. There is no definite or certain sum stated in the instrument, except as

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to the $100,000 note, for which the property stands pledged. In this respect the instrument may be treated not as a pledge, as contemplated in the war-revenue act, but as an agreement that certain collateral held by the bank shall be held as a basis of credit to the owner, or to meet liabilities depending upon the happening of future contingencies. The property thus deposited and held by the bank may or may not become liable as security for a debt of the owner, or it might, in the business dealings of the owner with the bank, be considered one day as collateral security and another day it would not, for the status of his account could, by deposits or credits, be changed from that of debtor to creditor within a day or even within an hour or less time. It seems, of course, that the instruments or agreements like the one under consideration are made to the banks by patrons and depositors with the view of obtaining credit and of constituting security to the bank through the means of property held by the bank for the repayment of overdrafts or other indebtedness or liability which may be incurred, but as long as the depositor or patron has funds in bank to meet his checks or drafts, or does not incur liability to the bank by note or other evidence specifying indebtedness, the bank could not hold any security that he had deposited with it under the terms of this paper. It is only when the contingency arises under the terms of the stipulation or agreement that the property deposited with the bank can be held. Before the provisions of the war-revenue act would apply, the amount of the indebtedness must be liquidated and rendered certain, and in order to require a stamp upon the paper which pledges the property for the amount of the debt thus rendered certain, the amount for which the property is pledged must be definitely set forth in the face of the pledge itself, or the instrument pledging the property as security should accompany the note or evidence of debt, the payment of which it is intended to secure.

I am unwilling to construe a paper like the one we are considering as of such a character as to require a revenue stamp. Take a case like this: Suppose a man, who has valuable securities, such as Government bonds, etc., desires to obtain credit at a bank; he goes to the bank and deposits these securities as a basis of credit, and he stipulates, as in the case under consideration, that if at any time he should fail to pay any debt he owes the bank, either by note, overdraft, or otherwise, the bank may hold this property, and, under certain conditions, may sell it to make good the owner's indebtedness. This does not constitute a pledge of property for the payment of a debt such as is contemplated by the act in question. The law does not say that all mortgages and pledges of property shall require a stamp, but only such mortgages and pledges as are made to secure the payment of definite and certain sums of money loaned at the time, previously due and owing, or forborne to be paid, being payable. Mortgages or pledges are sometimes given for indemnity where persons become surety upon official bonds. It is frequently the case that the principal will execute a mortgage or pledge of property to his surety to indemnify him against loss on account of the conduct of the principal. Such mortgage or pledge is not for the security of any sum until the official shall make default and the amount of his default shall be ascertained. Consequently, such instruments do not require a stamp when they are executed, because they are not to secure the payment of a definite and certain sum, but the sum which they are to secure is dependent upon a contingency which may never happen.

The same in case of these deposits. The owner of the property deposited may never become liable to the bank. He may not make an overdraft or become otherwise indebted to the bank, and if he does, as

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before stated, how is the amount of the stamp to be determined when the paper itself states no definite or certain sum? Certain instruments and papers are required by the provisions of the war-revenue act to be stamped. Still, if a man does not make the instrument or paper he is not taxed by the law. Promissory notes are required to be stamped, and yet if a man borrows money and does not give a note he does not have to bear the burden of a stamp. So it is as to a lease or agreement made for the renting of land. If it is made in writing, it has to have the stamp; but one may rent land by parole, and if he does, of course there is no stamp, because the instrument required to be stamped is not executed. And numbers of other cases might be instanced of the same character.

I hold, therefore, that a paper or instrument like this one, stipulating that certain securities or other property shall be held as indemnity or as a basis of credit or a guarantee generally, without specifying particular property as security for the payment of a definite and certain sum, is not liable to tax under the provisions of the war-revenue act.

I can not agree to the proposition that the paper or instrument under consideration, in addition to being a pledge of property for the payment of debt, is also to be construed as a power of attorney and stamped as such. A power of attorney is an instrument by which the authority of one person to act in the place and stead of another as attorney in fact is set forth. The language of this instrument does not constitute the party holding the property as security the attorney in fact of the owner. It only authorizes the holder in case of default to make the securities available for the purposes for which they were deposited, and in order to do this authority to sell and to transfer, etc., is given. This is not a power of attorney. It is only a necessary element of the instrument in order that it may be utilized to the end that it was executed.

I do not think it necessary to consider the second instrument or paper submitted, the question involved in it being substantially the same as the one I have discussed.

Respectfully, yours,

JAS. E. BOYD, *Assistant Attorney-General.*

Approved:

JOHN K. RICHARDS, *Acting Attorney-General.*

COMMERCIAL BROKERS.

(*See also* BROKERS; and DECISIONS 19571, p. 18; 19744, p. 284; 19870, p. 58; 19998, p. 62; 20033, p. 141; 20167, p. 70; 20274, p. 73.)

(19575.)

Special tax—Commercial brokers.

Persons representing cigar manufacturers who are furnished with samples and send orders to factories, receiving a commission for furnishing orders, liable as commercial brokers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 27, 1898.

SIR: In reply to the letter addressed to you on the 20th instant by Hanna Brothers, at Dayton, Ohio, which you referred to this office on the

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22d instant, stating that they represent cigar manufacturers who furnish them with samples, which they take out on the road, paying their own traveling expenses and sending the orders to the factories, and that "they receive a commission for furnishing the orders," you will please inform them that they are required to pay special tax as commercial brokers under subdivision 4 of section 2 of the act of June 13, 1898.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. BETTMANN, *Collector First District, Cincinnati, Ohio.*

(19615.)

Special tax—Commercial brokers.

Warehouse receipts for grain transferred through elevators liable—Brokers must pay special tax at branch offices.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 1, 1898.

SIR: I reply as follows to the several questions submitted in your letter of the 21st ultimo:

(1) A member of the board of trade, "usually denominated a commission man," is to be regarded as a commercial broker, and subject to special tax under paragraph 4 of section 2 of the act of June 13, 1898, if he negotiates sales or purchases of goods "as a broker."

If it is denied by any such "commission man" that he transacts such business as a broker, you will please obtain and send to this office a statement of the grounds on which such denial is based.

(2) When grain coming from some local station is transferred through an elevator into cars for shipment, and a warehouse receipt showing weight and grade is issued, the stamp tax of 25 cents must be paid on such receipt. Although the grain to be transferred through the elevator is, as you state, "in the warehouse bins perhaps only a few hours," it is to be regarded as "on storage" within the meaning of these words in the last paragraph of Schedule A of the act.

(3) A firm of brokers whose main office is, you say, in Peoria, and who "have a branch office at Omaha," are required to pay the special tax of $50 as brokers both at Peoria and at Omaha. A separate special-tax stamp is required to be taken out for both places.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. J. DAUGHERTY, *Collector Fifth District, Peoria, Ill.*

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(19763.)

Stamp tax—Broker's note.

Original note or memorandum of sale alone subject to tax of 10 cents, broker to affix stamp; duplicate or copy not taxed, but should state that the original was duly stamped—Memorandum accompanying offer to purchase subject to tax when offer is accepted.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 26, 1898.

SIR: This office is in receipt of a letter, dated July 8, from Kraus & Stetten, of New York, * * * saying that they are merchandise brokers; that they render a contract to both buyer and seller, and asking whether or not they are required to stamp both buyers' and sellers' contract with a 10-cent stamp under paragraph 17 of Schedule A of the act of June 13, 1898, which recites:

Contract: Broker's note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such, for each note or memorandum of sale, not otherwise provided for in this act, ten cents.

The original note or memorandum of sale is alone subject to the tax of 10 cents when made by a broker or one acting as such, and the said tax is payable by said broker or one acting as such; the duplicate or copy of the original memorandum of sale is not taxed.

It makes no difference, under the act of June 13, 1898, whether the broker sends or delivers the original memorandum of sale, duly stamped, to the purchaser or to the seller, or whether he retains the same, acting as broker, for both buyer and seller. The duplicate or copy of the original note or memorandum of sale should state that the original was duly stamped.

In this connection, I will state that a mere memorandum, accompanying an offer to purchase, is subject to the tax only provided the offer is accepted, and should be stamped by the broker on the acceptance of the offer.

Persons engaged in the general business of merchandise brokers are commercial brokers, and are required to pay the special tax under paragraph 4 of section 2 of the act of June 13, 1898.

Respectfully, yours,

G. W. WILSON, *Acting Commissioner.*

MR. CHAS. H. TREAT,
Collector Second District, New York, N. Y.

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(19766.)

Special tax—Commercial brokers.

Commission merchants, auctioneers, tobacco and cotton warehousemen, and cattle brokers are not commercial brokers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 27, 1898.

SIR: In reply to the letters addressed to you by M. E. Clarendon & Son, 78 and 80 Gold street, New York, and by Mr. A. H. Ammidown, 206 Broadway, New York (which you referred to this office on the 21st instant), you will please inform them that it is held by this office that merchants who receive goods into their possession for sale on commission are not commercial brokers within the meaning of the fourth paragraph of section 2 of the act of June 13, 1898, and are, therefore, not required to pay special tax under that paragraph.

It is further held that warehousemen who receive tobacco, cotton, or any other produce or goods on consignment, for sale on commission, are not liable as commercial brokers under this section.

Auctioneers who receive and sell goods at their auction rooms or on the premises of the owners, on commission, are not subject to special tax as commercial brokers under this act; nor are cattle brokers who receive and sell cattle on commission. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

(19884.)

Special tax—Commercial brokers.

Persons whose business it is to obtain orders from those who desire to buy goods, and who purchase, receive, and forward the goods to their customers, are not on this account commercial brokers, nor are they required to pay special tax under the act of June 13, 1898, for such business, though they make a profit therein through discounts allowed them by merchants and commissions paid them by their customers—"Installment purchasers," who have running accounts at stores, and give orders to their customers, on which orders these customers themselves buy and receive goods, are required to pay special tax as commercial brokers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 10, 1898.

SIR: I have received your letter of the 5th instant, stating your understanding of the ruling of this office to be "that persons who purchase merchandise at stores for others and derive compensation therefor

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by the discounts allowed them are liable to special tax as commercial brokers."

Your understanding is correct on this point only so far as it relates to the negotiation of purchases of goods by the persons in question without their receiving into their possession the goods which they order for others. It does not apply to persons (such as the poor widow referred to in the letter addressed to you, on the 9th instant, by Mr. John C. Grady, which has been sent to this office) whose business it is to seek out those who want to buy goods by taking samples of goods, furnished by merchants, with the marked prices attached and obtaining orders on these samples from persons wishing to buy, and upon the receipt of these orders, buying and forwarding the goods, garments, or articles ordered, the store at which these purchases are made generally allowing a discount from the regular prices of the goods.

If the business of these purchasing agents is strictly confined to buying goods at a discount for persons giving them orders therefor, and receiving and transmitting these goods to such persons, this does not involve them in special-tax liability as commercial brokers under paragraph 4 of section 2 of the act of June 13, 1898, even though they should also receive a commission from the persons for whom they act as purchasing agents.

In view of the distinction drawn by the Supreme Court in its decisions between a factor and a broker, it seems that persons who receive into their possession any goods or merchandise, and sell them on commission, can not be regarded as commercial brokers under the fourth paragraph of section 2 of the act of June 13, 1898, notwithstanding the broad language of that paragraph.

But you refer in your letter to a different class of persons from these purchasing agents who receive and deliver goods, namely, to "installment purchasers," who, you say, "are persons who have running accounts at the large stores," and whose "friends and customers make purchases at such stores and have the goods which they buy charged to these accounts, the person in whose name the account stands collecting from the actual purchaser from time to time and making monthly settlements with the stores and being allowed discounts." It is understood from this statement that these "installment purchasers" do not receive and deliver the goods thus disposed of by merchants, although they make a profit through the discount allowed them by the merchants on the sales made to the customers sent by them. If so, in the opinion of this office, these "installment purchasers" are commercial brokers within the meaning of the statute and must be required to pay special tax as such.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. P. A. MCCLAIN, *Collector First District, Philadelphia, Pa.*

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(19938.)

Special tax—Commercial brokers.

A firm negotiating sales of goods not shipped to them nor held in their possession before being sold, but shipped from other points direct to purchasers from the mills, they being liable for all sales and doing their own "billing," making settlements with the mills at the end of each month, retaining a stipulated commission, held to be liable to tax as commercial brokers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 23, 1898.

SIR: Your letter of the 3d instant has been received, inclosing a letter addressed to you by T. A. Shaw & Co., dry goods commission merchants at 254 and 256 Market street, Chicago, who represent "Eastern and Southern mills to sell their goods," and inquiring as to their special-tax liability as commercial brokers.

It appears from their statement that goods for Chicago are shipped to them and are in their possession before being sold, but that "goods for other points are shipped direct to purchasers from the mills," and that they are liable for all sales made by them, and do all their own "billing" and make "settlements with the mills at the end of each month, retaining a stipulated commission."

Upon these facts you will please inform them that they are held to be commercial brokers, and subject to special tax as such under paragraph 4 of section 2 of the act of June 13, 1898.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. E. COYNE, *Collector First District, Chicago, Ill.*

(19966.)

Special tax—Commercial brokers.

Persons representing several houses in the negotiation of sales of goods on commission (the goods not being in their possession), if they are not bound by agreement to act solely for these houses, but are at liberty to engage in the same transactions for other houses, are commercial brokers, and must pay special tax as such.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 26, 1898.

SIR: Your letter of the 12th instant has been received, inquiring as to the special-tax liability of Howard & Kelly as commercial brokers at Lexington, Ky., upon the following statement of facts:

They sell to the wholesale grocery trade only, and the greater number of their orders—all of the large ones, in fact—are sent direct to the houses for which they negotiate sales, and the goods, if the orders are accepted, are shipped direct from the house to the customer.

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You further state that "they solicit sales for between twenty-five and thirty houses, representing one or more houses in each particular line of goods usually handled by wholesale grocers," and that "they do not negotiate sales for any houses with which they have not previously entered into a contract; but there is nothing in any of their contracts that would prevent them from entering into a contract with other houses in the same line. They sell goods for any house with which they can make a profitable contract."

Upon these facts you are hereby advised that if these negotiations of sales are made by Howard & Kelly on commission, without their receiving into their possession and delivering the goods which are thus sold, you are correct in holding that they are commercial brokers under the fourth paragraph of section 2, act of June 13, 1898, and subject to special tax accordingly.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. D. A. GATES, *Revenue Agent, Louisville, Ky.*

(20117.)

Special tax—Commercial brokers.

Special tax is not required to be paid for representing one, two, or three firms to solicit and receive orders, if person is bound by agreement to give his entire service to them.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 28, 1898.

SIR: Your letter of the 15th instant, with inclosure of letters from Mr. A. F. Lumm, of Houston, Tex., in which he claims that he is not liable as a commercial broker, and requests that the money paid by him as such be refunded, has been received.

It has been decided that where a man is employed to represent one, two, or three firms to solicit and receive orders on commission for their goods, and is bound by his agreement with them to give his entire services to them to the exclusion of other firms or persons, he is not regarded as a commercial broker within the meaning and intent of the law.

The case of Mr. A. F. Lumm is quite different. He holds himself out as a merchandise broker, has a place of business, and states in his letter that he is a resident broker or salesman for factories and jobbers in different portions of the United States, and I hold he is liable as commercial broker and must pay special tax as such.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. WEBSTER FLANAGAN, *Collector Third District, Austin, Tex.*

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(20164.)

Special tax—Commercial brokers.

Where a dealer in diamonds engages in the business of negotiating sales of diamonds on commission as agent of another person, "on memoranda," without having the diamonds in his possession, he becomes a commercial broker under the fourth paragraph of section 2 of the act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 11, 1898.

SIR: Mr. David Mayer, of 45 Maiden Lane, New York City, in a letter to this office, referring to a demand notice which he has received from you to pay special tax as a commercial broker, states that he is "not a broker but a dealer in diamonds on a small scale," and further says:

In regard to my business I wish to state the nature of it: As I have not a large capital, I obtain my goods on memoranda and try to sell them at a profit.

If the diamonds, the sale of which he thus negotiates on memoranda, are not received into his own possession, and he makes a business of thus negotiating these sales as an agent on commission, you have properly called upon him to pay special tax as a commercial broker. If he receives the diamonds into his possession and sells them on commission, he is not a commercial broker (in view of decisions of the courts), and the demand notice may be withdrawn; but even if he negotiates the sales of diamonds as agent for other persons and receives a commission thereon his transactions of this kind must be extensive enough to constitute a "business" within the meaning of the law; otherwise he could not properly be regarded as liable for the special tax under paragraph 4 of section 2 of the act of June 13, 1898, as the words "whose business it is" control in the construction of the language of that paragraph.

Please report the facts in this case and the action taken by you herein to this office. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

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(20168.)

Special tax—Commercial brokers.

Persons who represent several firms and give their entire services to them and sell only from their quotations are liable as commercial brokers, unless they can show that they are under agreement with such firms to act only for them, and are excluded from negotiating purchases or sales for other persons.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 11, 1898.

SIR: Perry & Co., whose letter heads show them to be "merchandise brokers," 215½ Main street, Houston, Tex., in a letter to this office, dated the 15th ultimo, state that the special tax paid by them as commercial brokers has been remitted to them, but that the question is raised again whether they are not liable as commercial brokers under the fourth paragraph of section 2 of the act of June 13, 1898. They say that they "are representing several firms," and that they give their "entire services to them and sell only from their quotations."

You may inform them that notwithstanding this statement they must be held liable as commercial brokers, unless they are able to show that they are under agreement with the firms to which they refer which binds them to act only for them and excludes them from negotiating purchases or sales of goods, etc., as brokers for other persons. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. WEBSTER FLANAGAN, *Collector Third District, Austin, Tex.*

(20189.)

Special tax—Commercial brokers.

Persons who are employed by a coal company as agents to negotiate sales of coal for such company, on commission, are not on this account liable as commercial brokers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 12, 1898.

SIR: In your letter of the 19th ultimo you state that you have found "a great many station agents employed by the Philadelphia and Reading Railroad Company who are selling coal for the Philadelphia and Reading Coal and Iron Company;" that "they sell this coal on commission and are allowed 5 cents on every ton sold, but they do not have this coal in their possession;" that "they simply as agents take orders and send the same to the home office of the coal and iron company;" and that you accordingly "have notified them that they are liable as commercial brokers."

If, as appears from your statement to be the fact, these persons are employed only by the Philadelphia and Reading Coal and Iron Com-

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pany in this business, in the opinion of this office they must be regarded as merely the agents or employees of that company, and the facts that, as such agents, they receive a commission from their principals of 5 cents on every ton of coal sold, and that the coal whose sales they thus negotiate is not in their possession, do not constitute them commercial brokers within the meaning of the fourth paragraph of section 2 of the act of June 13, 1898.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. H. L. HERSHEY, *Collector Ninth District, Lancaster, Pa.*

(20198.)

Special tax—Commercial brokers.

Persons engaged in buying and selling merchandise on a board of trade for present and future delivery, for themselves exclusively, and not for others, are not commercial brokers within the meaning of the definition contained in paragraph 4 of section 2 of the act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 14, 1898.

SIR: A letter from Mr. William E. McHenry, a special employee in your division, dated the 23d ultimo, has been referred to this office, stating that he finds a large number of persons, members of the Chicago Board of Trade, who style themselves "scalpers or speculators," and who deny that they are liable for special tax as commercial brokers under the war-revenue act, "on the ground that they do business for themselves exclusively."

Mr. McHenry expresses the opinion that "they are liable for the special tax as commercial brokers under section 2, paragraph 4, of said law," and says:

They buy and sell commodities on the Chicago Board of Trade for present and future delivery, for themselves exclusively, and not for others.

If this describes fully their business, they do not come within the definition of commercial brokers in paragraph 4 of section 2 of this act. If they were engaged in the buying of "stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities, for themselves," they would become "brokers," under the second paragraph of section 2 of the act, but under the fourth paragraph, in order to become liable as "commercial brokers," their negotiation of "sales or purchases of goods, wares, produce, or merchandise" must be for others, on commission. If they make such purchases for themselves only, they are clearly not within the terms of this paragraph of the act.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES W. MCGINNIS, *Revenue Agent, Chicago, Ill.*

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(20241.)

Special tax—Commercial broker.

A person whose business it is to take orders from stone contractors and place these orders with quarrymen, receiving a commission from the quarrymen on the sales thus negotiated, is required to pay special tax as a commercial broker.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 25, 1898.

SIR: Mr. Geo. W. Bollenbacher, of Bloomington, Ind., has addressed an inquiry to this office as to whether he is liable as a commercial broker upon the following statement of facts:

I receive orders from stone contractors and place these orders with the quarrymen, receiving a commission from the quarrymen.

* * * You will please inform him that as his business is, as it appears from his statement, that of a broker negotiating "sales * * * of goods * * * or merchandise," he comes within the definition of a commercial broker in the fourth paragraph of section 2 of the act of June 13, 1898, and is required to pay the special tax provided for by that paragraph, and take out the requisite stamp.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. A. E. NOWLIN, *Collector Sixth District, Lawrenceburg, Ind.*

(20272.)

Special tax—Commercial broker.

A person engaged in the manufacture of proprietary medicines, which he places upon the market duly stamped, some of which goods are sold outright by the company, and some of which are left with the local agent for sale on commission, is not regarded as a commercial broker.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 31, 1898.

SIR: The manager of the Lanning Manufacturing Company, of Davis City, Iowa, Mr. George W. Lanning, in a letter addressed to this office, states that you have informed him that his company is liable for special tax as a commercial broker. He dissents from this view, and states that his company is engaged in the manufacture of proprietary medicines, which it places upon the market, duly stamped under the war-revenue act; that some of these goods the company sells outright and some it leaves with its local agent for sale on commission, on which sales the "company gets 66⅔ per cent on the retail selling price," and that these "are all goods manufactured by the Lanning Manufacturing Company at its laboratory in Davis City, Iowa."

If these are all the material facts in this case, the Lanning Manufacturing Company is not a commercial broker within the definition con-

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tained in the fourth paragraph of section 2 of the act of June 13, 1898. Persons or firms can not under that definition be regarded as commercial brokers for selling their own property, or leaving the property with others for sale on commission. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. J. M. KEMBLE, *Collector Fourth District, Burlington, Iowa.*

(20295.)

Special tax—Commercial brokers.

A person who sells and delivers books on commission not regarded as a commercial broker if he receives them into his possession.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 7, 1898.

SIR: Mr. John S. Hutson, of Hancock, Washington County, Md., in a letter to this office, dated the 1st instant, inquires whether he is subject to special tax as a commercial broker for selling books on commission. He says:

I take the orders until I get 25. I send them in to the company, and they are shipped to me on thirty days' credit. I deliver the books and collect the money, and send their share in and keep the balance for myself.

* * * You may inform him that upon the facts stated he is not required to pay special tax as a commercial broker under the fourth paragraph of section 2 of the act of June 13, 1898.

A person who receives goods into his possession and sells and delivers them on commission is, it appears, not to be regarded as a commercial broker. (Slack *v.* Tucker, 23 Wall., 321.)

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. F. PARLETT,
Collector Internal Revenue, Baltimore, Md.

(20417.)

Special tax—Commercial brokers.

[Settled ruling modifying all previous rulings inconsistent therewith.]

Persons engaged in negotiating sales of flour for one company, sales of meats for another company, sales of coffee, sugar, etc., for another company, and so on, receiving a commission, are commercial brokers within the meaning of the fourth paragraph of section 2, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 12, 1898.

GENTLEMEN: This office has received your letter of the 7th instant, referring to a demand notice which has been served by a deputy col-

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lector upon your clients, Messrs. E. M. Hendrix, W. W. Ellington, and J. R. Donnell, to pay special tax as commercial brokers.

You state that these persons negotiate sales of flour for a milling company, sales of meats for another company, sales of coffee, sugar, and molasses for another company, and so on, receiving a commission on all the sales thus negotiated.

In the opinion of this office the business thus described is that of a commercial broker within the meaning of the fourth paragraph of section 2 of the act of June 13, 1898, and special tax must be paid accordingly.

The settled ruling of this office on this subject is the following, which modifies prior rulings in any manner inconsistent herewith: "Every person, firm, or company who negotiates sales or purchases of goods, wares, produce, or merchandise for another as a business, or material part of a business, without acquiring possession of, or any right or title in, the subject of the sale or purchase, and receives a commission for such service, *except* under contract to sell or purchase *exclusively for certain persons or firms*, or who negotiate freights and other business for the owners of vessels, or the shippers, consignors, or consignees of freight carried by vessels, for a commission, shall be regarded as a commercial broker."

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Messrs. KING & KIMBALL, *Attorneys at Law, Greensboro, N. C.*

CONVEYANCES.

(*See also* MORTGAGES; and DECISIONS 19692, p. 56; 19742, p. 228; 19800, p. 95; 19834, p. 230; 19932, p. 231; 20440, p. 235.)

(19838.)

Stamp tax—Deeds to burial sites.

If a deed does not grant, assign, transfer, or convey to the purchaser any lands, tenements, or other realty, but only the right to burial, to erect monuments, etc., it does not require a stamp.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 5, 1898.

SIR: Yours of the 13th ultimo inclosed a copy of a deed given by the rector, wardens, and vestrymen of St. Paul's Church, conveying the right of the party to whom conveyed of burial for himself and family in a certain described lot in Forest Home Cemetery. You ask whether or not deeds of this character are subject to the stamp tax under the revenue law.

In reply, you are informed that if the deed does not grant, assign, transfer, or convey to the purchaser any lands, tenements, or other

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realty, but only the right to burial therein, to erect monuments thereon, etc., it does not require a stamp.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. HENRY FINK, *Collector First District, Milwaukee, Wis.*

(19839.)

Stamp tax—Deeds.

Stamping of deeds of conveyance, deeds conveying undivided interest, deeds of gift, deeds of release, and quitclaim deeds.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 5, 1898.

SIR: With yours of the 13th ultimo you inclosed two letters from Mr. A. F. Skinner, county register of Essex County, N. J., asking information as to how certain instruments should be stamped.

Please inform him that on deeds of conveyance the tax should be computed upon the true value of the property conveyed.

On deeds conveying only a specified interest in undivided property, that is, one-third, one-fourth, one-eighth, etc., the tax should be computed upon the actual value of the interest conveyed.

In the case cited by Mr. Skinner where an undivided one-eighth interest in property, the true value of the whole of which is $4,000, is sold for the nominal expressed consideration of $1, the value of the interest conveyed is $500, and the deed should be stamped accordingly.

All deeds of conveyance where the value of the property conveyed exceeds $100 must be stamped. The fact that the deed is a deed of gift from husband to wife or wife to husband does not exempt it from tax. Such deeds must be stamped according to the true value of the property conveyed.

In States where property can not be conveyed directly from husband to wife, but must be conveyed to a third party, who in turn conveys to the wife, both deeds must be stamped according to the true value of the property conveyed.

A quitclaim deed, or a deed made to cure a defect in a previous deed, must be stamped in accordance with the true value of the property described in the deed.

* * * * * * *

Where the local laws authorize entry of satisfaction of the mortgage upon the record, and the mortgage is thus canceled, such entry does not require a stamp.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. W. D. RUTAN, *Collector Fifth District, Newark, N. J.*

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(20065.)

Stamp tax—Contract for deed.

A contract for deed used in selling real estate is not subject to stamp tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 16, 1898.

SIR: This office is in receipt of a letter from Mr. Charles O. Elwood, Elkton, S. Dak., under date of August 15, 1898, who has to-day been referred to you, submitting to this office form of a contract for deed used by him in selling real estate, and asking whether or not said contract is subject to stamp tax.

In reply you will please inform him that by said contract the seller agrees to convey to the purchaser by warranty deed certain property; that the purchaser agrees to pay a certain sum of money, and describes the way the sum should be paid; also states that in case of failure of the party of the second part (the purchaser) to make his payment his contract shall, at the option of the seller, be forfeited and determined; that if this instrument shall have been recorded in any recorder's office the filing of a declaration of forfeiture shall be sufficient to cancel all obligations and fully reinvest the seller with all right, title, and interest hereby agreed to be conveyed, and the purchaser shall forfeit all payments made by him on this contract. This contract further states that this sale of land is made subject to the approval of the owner of said land; that upon the delivery of the warranty deed and the signing of a mortgage by the second party this contract is to be null and void, being now held as a simple memorandum of sale.

Said contract for deed is not subject to stamp tax, except, however, if the laws of the State of South Dakota require that the party executing said contract shall acknowledge his signature before an officer with a seal in order to make it legal and binding, then such a certificate would require a 10-cent stamp as a certificate required by law.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. J. E. HOUTZ, *Collector Internal Revenue, Omaha, Nebr.*

(20096.)

Stamp tax—Escrow deeds.

Escrow deeds are not subject to taxation until final delivery.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 26, 1898.

SIR: This office is in receipt of your letter of July 28, 1898, asking for a ruling on the following question:

Where a deed is executed and placed as an escrow in a bank with

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instructions to the bank to deliver it to the grantee upon the payment of certain money and the performance of certain conditions specified in the instructions to the bank, you ask is this escrow deed subject to taxation.

You are advised that this office does not consider a deed placed in escrow subject to taxation until all the conditions have been complied with in the matter. This deed would not be operative as between the grantor and the grantee until delivery to the grantee, nor would it vest title until this time. It is an incomplete inchoate transaction.

There is no tax imposed upon the instrument until the time of its delivery, at which time the custodian of the deed should affix and cancel the proper stamps required. In the agreement under which the custodian of the deed holds it for delivery or return there can be stated that upon the delivery and completion of the transaction the deed must be stamped with the proper amount of revenue stamps.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. L. MORRISON, *Collector, Sante Fe, N. Mex.*

(20195.)

Stamp tax—Conveyances of real estate.

The words of purchase in the paragraph of the law relating to stamps on conveyances include all changes of title except those occurring by descent or operation of law.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 13, 1898.

SIR: This office is in receipt of a letter under date of July 29, 1898, from Johnson & Levy, lawyers, Chamber of Commerce Building, Cincinnati, Ohio, in which they state as follows:

We write as to the construction you have made, if any, as to the stamp tax on conveyances of real property, as we learn from the collector here that he claims all deeds must be stamped regardless of the character of the grantee—that is, whether the grantee be a purchaser or not; whereas under the plain phraseology and terms of the act it is clear to us it is only where there is a purchaser, and the deed is to the purchaser of the property, that the instrument is to be taxed. So with the conveyance between tenants in common, who have amicably agreed upon the division of the property between them, each conveying to the other his separate interest. In this case, also, we do not see that the grantee is a purchaser within the meaning of the stamp act. If it were the intention of the law to stamp *all* deeds, then the words "to or vested in the purchaser or purchasers or any other person or persons by his, her, or their direction" are worse than meaningless, because misleading, and should have been omitted. We would be pleased to have your advice upon the point.

* * * Please advise them that by advice of the Attorney-General this office holds that the words of purchase in the paragraph relating to conveyances include all changes of title except those occurring by

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descent or operation of law. The instrument that vests the title is subject to taxation, and if it is where the consideration is "love and affection" it should be taxed according to the actual value of the property conveyed and vested.

Respectfully, yours, G. W. WILSON, *Deputy Commissioner.*

Mr. BERNHARD BETTMANN,
Collector First District, Cincinnati, Ohio.

(20232.)

Stamp tax—Quitclaim deed.

Quitclaim deed taxable according to value of the property interest conveyed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 22, 1898.

SIR: This office is in receipt of your letter of October 15, 1898, in which you submit, at the request of Mr. John F. Holland, his letter dated October 14, 1898, with your advice that Mr. Holland has been informed of paragraph 7, decision 19839, page 135.

The statement made by Mr. Holland is that he tendered for record to the recorder of deeds of Cook County a quitclaim deed in which the consideration of the transfer is stated at $25, and which sum represents the actual, bona fide value of the interest of the grantor in said deed, and which is conveyed by said instrument. The actual value of the premises described in the deed is somewhere between $10,000 and $12,000. The recorder of deeds refuses to record the deed unless it is stamped according to the actual value of the premises, regardless of the value of the grantor's interest or value of the interest conveyed by said deed.

Mr. Holland desires a ruling upon this instrument, and before passing upon it, paragraph 7, in decision 19839, is hereby quoted:

A quitclaim deed, or a deed made to cure a defect in a previous deed, must be stamped according to its true value of the property described in the deed.

This clause should be interpreted as follows: "It is not the true value of the entire property described in the deed, but it is the true value of the property interest in the property described in the deed." For instance, this property is, as Mr. Holland states, worth $12,000. A has an outstanding one-sixth interest, and he desires to quitclaim this to the record holder of the other five-sixths interest. The tax imposed on this deed would be on the sum of $2,000, the actual value of the interest in the property conveyed by A. If this quitclaim deed that Mr. Holland desires to record conveys such an interest, the *bona fide* property value of which is only $25, then there is no tax on this deed whatever. If the $25 is a nominal consideration and the true value of the property inter-

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ests conveyed by the quitclaim deed is greater than $25, the recorder of deeds was correct in refusing to receive it for record until it was properly stamped. It would not be necessary to stam : this quitclaim deed according to the actual value of the premises described therein, but it would be necessary to stamp it according to the actual value of the property interest conveyed by the instrument. As this is a question of fact wherein the facts are best within the knowledge of Mr. Holland, it will have to be decided between this gentleman and the recorder of deeds. It would seem to this office that when so decided the deed should be received for record.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. F. E. COYNE, *Collector Internal Revenue, Chicago, Ill.*

(20310.)

Stamp tax—Contracts for sale of land.

Contracts for sale of land taxable if they vest title; if provision is made for future delivery of deed, they are not taxable.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 9, 1898.

SIR: This office is in receipt of your letter of September 22, 1898, asking if contracts for the sale of land are subject to taxation.

In reply, you are advised that these contracts, if they vest title, are subject to taxation as conveyances. If they contain provisions for the giving of a deed in the future upon the compliance with conditions precedent mentioned in the contract, they are not subject to taxation as conveyances.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. C. T. HARDINGER, *Osceola, Iowa.*

(20311.)

Stamp tax—Deeds.

Deeds of masters in chancery are required to be stamped.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 9, 1898.

SIR: Under date of September 22, 1898, you ask, Do deeds made by a master in chancery require stamps? In reply, you are advised that they do.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. LYMAN LEEDS, *Mount Carmel, Ill.*

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(20320.)

Stamp tax—Warranty deed.

Warranty deed with vender's lien taxed as a conveyance of land—No mortgage tax imposed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 11, 1898.

SIR: This office is in receipt of a letter, under date of October 31, 1898, from Mr. O. M. Wood, Quitman, Tex., in which he incloses a blank deed, and asks to be informed as to the tax imposed thereon.

This is a warranty deed with vendor's lien, and it is subject to taxation as a conveyance of land. The lien that the vendor retains is not considered by this office as an evidence of pledging or mortgaging of land to secure the payment of the balance of the promissory note. The notarial acknowledgments to this instrument are not subject to taxation, whether the consideration in the deed is over or under $100.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. P. B. HUNT, *Collector Internal Revenue, Dallas, Tex.*

CUSTOM-HOUSE BROKERS.

(19576.)

Special tax—Custom-house brokers.

Brokers must pay special tax in each city where they do business.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 27, 1898.

SIR: In reply to an inquiry addressed to this office on the 21st instant by F. B. Vandegrift & Co., 50 South Fourth street, Philadelphia, * * * you will please inform them that, as custom-house brokers (as they state) in New York, Philadelphia, and Chicago, they are required to pay a special tax of $10 and take out the requisite stamp for each place of business in those cities.

It is held that the first clause of section 3235, Revised Statutes, applies to every business for which special tax is required to be paid, whether under old laws or under the new war-revenue bill.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. P. A. MCCLAIN,
Collector First District, Philadelphia, Pa.

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(20033.)

Special tax—Custom-house brokers.

Answers to a series of questions.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 13, 1898.

SIR: In reply to your letter, asking whether or not certain persons or firms are subject to special tax as custom-house brokers, you are advised as follows:

1. Persons who hold themselves out as custom-house brokers are clearly liable to special tax as such.

2. Firms known as agents of lines of steamships to whom merchandise is consigned to be exported to foreign countries (said merchandise being cleared by them at the custom-house by filing shippers' manifests as agents of exporters doing the business of custom-house brokers) are liable to special tax as such.

3. Where agents "pass entries," orders of appraisement, and other papers connected with baggage and merchandise belonging to passengers who have left the port, and to whom the bill of lading is sometimes intrusted, and who transact the business as agents, giving bonds to produce the owner's oath, they are subject to special tax as such.

4. Sales agents of certain factories and attorneys in fact of the manufacturers, receiving merchandise consigned to them for sale, making entries of all sorts, and giving bonds to produce owner's oath, are subject to special tax as such.

5. Persons or firms that prepare and arrange manifests and other papers essential to the entries and clearance of vessels, which papers are executed by the masters of vessels, the signatures of such persons or firms appearing upon the margin of the paper as having entered or cleared the vessel, are subject to the said tax.

6. Persons who pay special tax as commercial brokers, if they act as the agents of others "to arrange entries and other custom-house papers, or transact business at any port of entry relating to the importation or exportation of goods, wares, or merchandise," must in addition pay the special tax as custom-house brokers.

7. As to attorneys in fact of exporters and importers, who act for them alone and whose occupation is that of a sales agent, and not that of a general broker, if they transact business that comes within paragraph 5 of section 2 of the act of June 13, 1898, they must pay the special tax as custom-house brokers.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. W. F. STONE, *Collector of Customs, Baltimore, Md.*

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(20206.)

Special tax—Custom-house brokers.

A special-tax stamp taken out by a person in his own name as a custom-house broker is sufficient to cover the business done by him in his own name, at the place of business stated therein, whether such business is done by him on his own account or as an agent for other persons.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 19, 1898.

SIR: Messrs. Kennedy & Moon, custom-house brokers, 25 and 27 William street, New York, state that at the port of Boston their representatives, Messrs. W. N. Proctor & Co., who hold the requisite special-tax stamp as custom-house brokers, have lodged claims at the custom-house for drawback of the duties on exported goods, in which they (Kennedy & Moon) appear as the principals, and that they are advised by Proctor & Co. that they (Kennedy & Moon) are held by the collector of customs to be "liable to the special tax of $10."

Kennedy & Moon say that they are not transacting any custom-house business at the Boston custom-house except as principals, and employ a duly licensed broker to represent their interests there.

In the opinion of this office, the special-tax stamp held by Proctor & Co. as custom-house brokers is sufficient to cover the transaction of all business for which that stamp was issued, at their place of business, whether such business is done by them on their own account or as agents for others.

You will please so inform the collector of customs at the port of Boston, but at the same time inform him that Kennedy & Moon have been advised that they could not transact custom-house business in Boston in their own name under the special-tax stamp held by Proctor & Co., and that the business transacted for them by Proctor & Co. must have been transacted in the name of Proctor & Co. in order that the latter's special-tax stamp should be sufficient to cover the business.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. JAMES D. GILL, *Collector Third District Boston, Mass.*

(20321.)

Special tax—Custom-house brokers.

Bills of sale of vessel property are "custom-house papers" in contemplation of the statute, and a person "whose occupation it is, as the agent of others," to prepare such bills of sale is required to pay special tax as a custom-house broker.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 12, 1898.

SIR: In reply to the letter addressed to you by Mr. George H. Clark, of Bath, Me., which you referred to this office on the 1st instant, you

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will please inform him that while bills of sale of vessel property are "custom house papers," within the meaning of the fifth paragraph of section 2 of the act of June 13, 1898, and a person, therefore, "whose occupation it is, as the agent of others," to make out such bills of sale, must be required to pay special tax as a custom-house broker under that paragraph, yet this special tax is not required to be paid in in the case, which he states, of a lawyer employed "to make out a bill of sale from John Smith to Richard Roe of one-sixty-fourth of schooner *B. W. Morse*," although "the lawyer gets $1 for executing the bill of sale," if this is but a single instance or an occasional act of this kind on the part of the lawyer in question.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES A. WOOD,
Collector Internal Revenue, Portsmouth, N. H.

CUSTOM-HOUSE PAPERS.

(*See also* DECISION 19709, p. 211.)

(19605.)

Stamp tax—Custom-house papers.

Stamps on custom-house entries, bonds, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 29, 1898.

SIR: I reply as follows to your letter of the 22d instant:

Your office is correct in requiring the following-described entries to have the stamp indicated affixed at time of presentation, viz:

Consumption or warehousing entries, $100 or less in value	$0.25
Consumption or warehousing entries, over $100, and not over $500	.50
Consumption or warehousing entries, over $500	1.00
Withdrawal entry, whether for consumption, transportation, or exportation	.50

Duplicates and triplicates of the foregoing entries are not required to be stamped.

Drawback entries are not required to be stamped.

Powers of attorney require the 25-cent stamp when presented.

Warehousing bonds, penal bonds, transportation bonds, exportation bonds, tea bonds, invoice bonds, owners' oath bonds, bonds for certificate of exportation—all required under customs regulations—must have affixed thereto the 50-cent stamp under that provision of Schedule A of the act of June 13, 1898, relating to "all other bonds of any description, except such as may be required in legal proceedings."

Certificates of delivery of bonded goods and other certificates required by customs regulations should have affixed thereto the 10-cent stamp under the provision of Schedule A for "Certificate of any description required by law not otherwise specified in this act."

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Certificates issued between customs officers for their own information, it is held, are not required by the law to be stamped.

Drawback debenture certificates are exempt from tax under section 17 of the act.

Respectfully yours, N. B. SCOTT, *Commissioner.*

Mr. WM. PENN NIXON, *Collector of Customs, Chicago Ill.*

DISTRIBUTIVE SHARES AND LEGACIES.

(*See* LEGACIES AND DISTRIBUTIVE SHARES.)

DRUGS AND MEDICINES.

(*See* MEDICINAL PREPARATIONS; PROPRIETARY ARTICLES.)

EXHIBITIONS AND SHOWS.

(*See also* CIRCUSES; THEATERS.)

(19749.)

Special tax—Traveling shows.

Exhibitions given by venders of patent medicines.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 22, 1898.

SIR: I have received your letter of the 14th instant, concerning applications which you have received from venders of patent medicines who give musical entertainments and concerts in tents, some of which are variety performances, and to which at times admission is free, but at other times a nominal admission is charged for seats inside the tent.

Where these shows consist, as you state, merely of "feats of marksmanship, songs, and variety performances" (like ordinary minstrel performances), the special tax required to be paid by these medicine venders—whether they charge an admission fee or not—is $10 for any State in which such performances are given in the month of July. When they move to another State, beginning performances therein in any other month than July, the special tax is to be reckoned from the first day of that month to the first day of July following, under the provisions of section 3237, Revised Statutes, which apply as well to the

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special taxes provided for by the act of June 13, 1898, as to all other special taxes. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. B. WHITE,
Collector Internal Revenue, Parkersburg, W. Va.

(19751.)

Special tax—Church entertainment.

The ordinary church or Sunday-school entertainment, without any hired performers, does not come under the head of public exhibitions or shows for money contemplated by the law.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 22, 1898.

SIR: Your letter of the 20th ultimo, addressed to the Secretary of State, has been sent to this Department and referred to this office, wherein you inquire whether the provisions of paragraph 8 of section 2 of the act of June 13, 1898, imposing a special tax of $10 "on all other public exhibitions or shows for money" not enumerated in other paragraphs of the section, "include church entertainments by home talent, and lectures given by clergymen in actual charge of pastorates, and illustrated by lantern views."

The ordinary church or Sunday-school entertainment given by the members thereof, without any hired performers, in the opinion of this office does not come under the head of the "public exhibitions or shows for money" contemplated by paragraph 8 of this section; nor does a lecture, even when illustrated by lantern views, when given for churches and benevolent societies, come under this head.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Rev. E. D. UPSON, *Angelica, Wis.*

(19752.)

Special tax—Amateur theatricals.

Amateur theatrical exhibitions, either in private houses or licensed public halls, for church or charitable benefits, are not such performances as are taxable under the law.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 23, 1898.

SIR: In reply to an inquiry addressed to this office on the 11th instant by Mr. Hammond Hunter, 115 East King street, Martinsburg, W. Va., you will please inform him that amateur theatrical exhibitions, "either in private houses or licensed public halls, for church or charitable bene-

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fits," are, in the opinion of this office, not such shows or performances as are contemplated by the provisions of section 2 of the act of June 13, 1898, and, therefore, that special tax is not required to be paid for these exhibitions.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. B. WHITE,
Collector Internal Revenue, Parkersburg, W. Va.

(19753.)

Special tax—Variety shows.

Variety shows for which no admission is charged—Exhibitions of horsemanship on race tracks.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 23, 1898.

SIR: Your letter of the 18th instant has been received, relating to the question of the special tax liability of the proprietors of places on Coney Island arranged with stages like theatres, on which stages are exhibited "variety shows for which no admission is charged, but which are a combination of dialogue and song and acrobatic feats," it being "expected that every one who enters will patronize the place by purchasing beer or other drinks."

This office concurs with you in the view expressed that the special tax is required to be paid for these places, under section 2 of the act of June 13, 1898, * * * reckoned from the first day of the month in which the liability begins to the first day of July following, under section 3237, Revised Statutes. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. FRANK R. MOORE, *Collector First District, Brooklyn, N. Y.*

(19792.)

Special tax—Kinetoscopes.

Exhibitions of Edison's kinetoscopes require payment of a special tax of $10 in each State where such exhibitions are had.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 28, 1898.

SIR: In reply to the letter addressed to you by Mr. J. B. Norton, of Comanche, Tex. (which you have referred to this office), wherein he states that he contemplates giving a series of exhibitions of Edison's kinetoscope in that State, "and will donate 25 per cent of receipts to

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the public schools at each place," you will please inform him that he is required to pay a special tax of $10 under paragraph 8 of section 2 of the act of June 13, 1898, for these exhibitions begun in the month of July in the State of Texas.

The one special-tax stamp taken out by him will answer for these exhibitions in any city, town, or other place in the State of Texas. If he should go into another State, the terms of the statute require that he should make return and pay another special tax for the latter State, and so on.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. S. W. T. LANHAM,
House of Representatives, Washington, D. C.

(19826.)

Special tax—County fairs.

Exhibitions and shows given on fair grounds, but not under management and control of the fair association holding special-tax stamp, are required to pay separate special tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 4, 1898.

SIR: In reply to your letter of inquiry of the 28th ultimo, you are hereby advised that county fairs, under whose management and control tests of speed of horses are exhibited, but (as you state) no "feats of horsemanship and no acrobatic performances," are not required to pay special tax for circuses under paragraph 7 of section 2 of the act of June 13, 1898; but, as it appears, they should pay special tax under paragraph 8 of that section.

In every case where a county fair has under its complete control and management various shows in which acrobatic performances, together with theatrical performances, are exhibited, a special tax of $100 for the year beginning July 1, or at that rate reckoned from the first day of the month in which the liability began to the first day of July following, is sufficient, in the opinion of this office, to cover all these shows within the inclosure of the fair grounds.

Where, however, the fair association has no such control or management of these exhibitions, and does not hold the special-tax stamp under paragraph 7 of the act, each of the separate exhibitions must be required to pay a separate special tax, either under paragraph 8 of the section (where the exhibition does not include feats of horsemanship or acrobatic sports) or under paragraph 7 of that section where the exhibition is such as to clearly come under the head of a circus.

A mere theatrical performance, not connected with any exhibition of feats of horsemanship or acrobatic sports, it is held does not come

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within the meaning of the seventh paragraph, and therefore the hundred-dollar special tax is not required to be paid for such theatrical performance.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. E. T. FRANKS, *Collector Second District, Owensboro, Ky.*

(19830.)

Special tax—Medicine vender's show.

The show of a medicine vender (consisting of various "athletic, humorous, and comic performances," there being given also an exhibition of rope-walking and trapeze performance, the object being merely to attract a crowd) liable to a tax of $10 under paragraph 8, act of June 13, 1898, instead of $100 under paragraph 7.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 4, 1898.

SIR: I have received your letter of the 28th ultimo, relating to the question of the special tax liability of J. W. Osburn, "Blue Mountain Joe," a medicine vender who travels from State to State, giving a show under a tent, consisting (as he states) of various "athletic, humorous, and comic performances, the object of the show being to attract a crowd," to which he might sell his medicines, that being his real business.

In some cases it appears that while general admission to the tent was free, he charged 10 cents for reserved seats therein. Whether, however, any direct charge is made for admission to shows of this kind or not, it is held by this office that they are subject to special tax under section 2 of the act of June 13, 1898. The only question remaining, therefore, is whether the special tax for the show in question is required to be paid under paragraph 7 of that section or under paragraph 8.

You are disposed to hold that the case of J. W. Osburn comes under paragraph 7, and you have, therefore, informed him that, in your opinion, he is liable for a special tax of $100 for the State of West Virginia on account of a show given by him in Martinsburg, W. Va., in the month of July.

While the facts are not clearly set forth in his letter or in the other papers accompanying yours, yet it is understood by this office that the show given by him consisted almost altogether of songs, dances, and dialogue entertainments, but that in addition thereto there was given an exhibition by a trapeze performer or a rope walker.

In my opinion, it would be a harsh and oppressive construction of the law to hold that this mere trapeze or rope exhibition constitutes the acrobatic sports referred to in paragraph 7 of section 2 of the act, necessitating the payment of a special tax of $100 by this medicine vender for his show, which in every other respect is nothing but a mere variety performance, and a special tax at the same rate for every other State besides West Virginia in which he exhibits.

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It is, I think, but fair and reasonable to regard his show and others of like character as coming within paragraph 8, and consequently as necessitating only payment of the special tax of $10 under that paragraph, instead of the special tax of $100 under paragraph 7, which would be simply prohibitory and not to the advantage of the revenue.

You may, therefore, accept the return which he has made as the proprietor of a show coming under paragraph 8, and payment of the special tax of $10 under that paragraph instead of a special-tax return for $100.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. B. WHITE,
Collector Internal Revenue, Parkersburg, W. Va.

(19873.)

Special tax—Horse races.

The special tax for horse-race exhibitions is $10 under paragraph 8 of section 2, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 10, 1898.

SIR: In reply to your letter of the 5th instant, stating that a great many horse races are given in your district, lasting from one to three days, and inquiring whether they come under the head of feats of horsemanship, referred to in paragraph 7 of section 2 of the act of June 13, 1898, you are hereby advised that as these races are mere tests of speed of horses, they are not, in the opinion of this office, the feats of horsemanship (such as are exhibited in circuses) contemplated by paragraph 7, to which you refer. Special tax is required to be paid for these horse races under paragraph 8 of that section, reckoned from the first day of the month in which they begin to the 1st day of July following, at the rate of $10 for the year beginning July 1.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. H. L. HERSHEY, *Collector Ninth District, Lancaster, Pa.*

(19941.)

Special tax—Halls.

Trustees or owners of a public hall which is only occasionally used for purposes of entertainments, embracing lyceum lectures, school exhibitions, dances, etc., not required to pay special tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 23 1898.

SIR: In reply to your letter of the 19th instant, you are hereby advised that the provisions of paragraph 6 of section 2 of the act of June 13, 1898, do not apply to the Masonic hall in Augusta, Ga., by

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reason of the facts, which you state, that this hall "is occasionally used for other purposes than those connected with the Masonic orders," and that "fairs have been held there; sometimes the lyceum lecture is held there; sometimes a dance or ball is given there, and sometimes the final exhibitions of the schools."

The trustees of the Masonic hall are not required to pay the special tax of $100 under that paragraph on account of such occasional use of the hall.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. W. C. JONES, *Augusta, Ga.*

(19960.)

Special tax—County fairs.

Special tax of $10 required to be paid by a fair association under paragraph 8 of section 2, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 24, 1898.

SIR: I have received your letter of the 22d instant, inquiring as to the special tax, if any, which must be paid under the act of June 13, 1898, for your fair or for shows given on the fair grounds.

It is held that the fair association must pay a special tax of $10 under paragraph 8 of section 2 of that act, or, rather, a special tax at this rate reckoned from the 1st day of the month in which the fair begins to the 1st day of July following. This special-tax stamp will cover the exhibitions of speed of horses on the race track and the general exhibition given on the grounds by the fair association.

But the proprietors of such other shows as have obtained the privilege from the association of exhibiting on the grounds, without otherwise being under the management or control of the officers of the fair, must themselves pay a special tax under paragraph 8 (at the rate of $10 for the year), and take out a special-tax stamp for each separate and distinct show on the grounds.

If any show exhibited on the fair grounds includes feats of horsemanship or acrobatic sports, such as are seen at a regular circus, special tax must be paid therefor under paragraph 7 of section 2 of the act, namely, at the rate of $100 for the year, reckoned from the 1st day of the month in which the show begins to the 1st day of July following.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. GEORGE HOOK, *Wheeling, W. Va.*

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(19967.)

Special tax—Rabbit races.

Entertainments for money, exhibiting the speed of greyhounds in what are known as "rabbit races," are subject to special tax under paragraph 8 of section 2, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 26, 1898.

SIR: In reply to your letter of the 13th instant, concerning entertainments given in the state of Texas, "ostensibly to test the speed of greyhounds, known as 'rabbit races,'" you are hereby advised that these entertainments come under subdivision 8 of section 2, act of June 13, 1898, and that the special tax of $10 imposed by that section is required to be paid for them accordingly.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. B. HUNT, *Collector Fourth District, Dallas, Tex.*

(19968.)

Special tax—Exhibitions at parks or gardens.

Exhibitions at parks, beer gardens, or places of resort outside of corporate limits of large cities are subject to tax of $10 under paragraph 8 of section 2, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 27, 1898.

SIR: In reply to your letter of the 11th instant, you are hereby advised that where proprietors of theaters and other like edifices, in cities having more than 25,000 inhabitants, have paid the special tax of $100 under paragraph 6 of section 2, act of June 13, 1898, this covers all exhibitions, theatrical or otherwise, given therein, without the payment of additional special tax therefor by the managers of the companies giving such exhibitions.

The proprietors of parks, beer gardens, and places of resort outside of the corporate limits of a city having more than 25,000 inhabitants are not required to pay the special tax of $100 for exhibitions given at such places; but if these exhibitions are under their own management or control they must pay the special tax of $10 under paragraph 8. If the exhibitions are not under their control, the managers of the companies exhibiting are required to pay the special tax under paragraph 8.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. J. DAUGHERTY, *Collector Fifth District, Peoria, Ill.*

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(19976.)

Special tax—Exhibition or show.

A variety performance given in a saloon "without cost," the patrons of which, however, are expected to buy drinks, is subject to special tax of $10 under paragraph 8 of section 2, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 30, 1898.

SIR: In reply to your letter of the 15th instant, concerning Mr. A. B. Colby, of the Fredericksburg Cafe, Portland, Oreg., in whose saloon "at night a variety performance is given without cost for admission beyond the price of drinks, which patrons are expected to buy," you are hereby advised that, notwithstanding the fact which you further state that the programme includes "an acrobatic performance on a flying trapeze," you are correct in the opinion which you express that the special tax required to be paid by Mr. Colby is $10 under paragraph 8 of section 2 of the act of June 13, 1898.

It is held by this office that this variety performance can not reasonably be regarded as a circus, subject to the special tax of $100, under paragraph 7 of that section.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. M. THOMAS, *Revenue Agent, Tacoma, Wash.*

(19977.)

Special tax—Lecturers or elocutionists.

Special tax is not required to be paid under section 2 of the act of June 13, 1898, for mere lectures, readings, or declamations by lecturers or elocutionists who exhibit no pictures or shows of any kind.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 30, 1898.

SIR: In reply to your letter of the 29 ultimo, you are hereby advised that this office, upon careful examination of the various paragraphs of section 2 of the act of June 13, 1898, imposing special tax upon proprietors of dramatic or operatic or other representations, plays, or performances, circuses, and "all other public exhibitions or shows for money not enumerated in this section," is of the opinion that lecturers and elocutionists, who exhibit no pictures or other illustrations or shows of any kind in connection with their speaking or reading, do not come within any of these paragraphs, and therefore are not required to pay special tax for their mere lectures, readings, or declamations.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. S. M. SPEDON, *New York, N. Y.*

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(20029.)

Special tax—County fair.

An agricultural society presenting, as an incident to the horse races, ball games, and the usual exhibits of a county fair, a show which includes some "acrobatic sports," etc., is not required to pay special tax as a circus under paragraph 7 of section 2, act of June 13, 1898, but should pay special tax at the rate of $10 for the year, under paragraph 8.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 9, 1898.

SIR: Mr. Charles H. Wright, secretary of the Berkshire Agricultural Society, in a letter to this office dated the 3d instant, states that this society has been called upon to pay a special tax of $100, under paragraph 7 of section 2 of the act of June 13, 1898, for its annual fair to be given at Pittsfield, Mass., September 13, 14, and 15, 1898.

The reason for your calling for payment of this special tax under paragraph 7 is, no doubt, the fact stated by Mr. Wright that his agricultural society pays the J. W. Gorman Company, of Boston, for giving at the fair a show consisting, among other things, of acrobatic performances, in connection with grotesque dancers, pantomimists, etc.

It appears, however, that the exhibition of the Gorman Company thus given by this agricultural society is only incidental to their regular exhibit at their fair, "between the heats of the trotting, and that the remainder of the attractions are ball games, horse and bicycle races, and the usual exhibits of a county fair." If so, this office, as at present advised, would not regard the Berkshire Agricultural Society as liable for special tax as a circus under paragraph 7, section 2, of the act of June 13, 1898.

The "feats of horsemanship" mentioned under that paragraph are held not to include the mere speeding of horses on race tracks; and it is further held that the "acrobatic sports" and "theatrical performances" also mentioned therein are meant only to refer to such feats and performances as are given in connection with a circus, as the word "circus" is known to the general public.

In this case, therefore, return (Form 11) should be accepted, and the special tax received from this fair association, under paragraph 8 of that section, and should be reckoned under section 3237, Revised Statutes, from the 1st day of September, 1898, to the 1st day of July following, at the rate of $10 under that paragraph.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. JAMES D. GILL, *Collector, Boston, Mass.*

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(20032.)

Special tax—Amateur dramatic exhibitions, musicales, etc.

A club giving exhibitions, not for any charitable or public objects, but solely for its own benefit, is required to pay special tax at the rate of $10 under paragraph 8 of section 2 of the war-revenue act.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 13, 1898.

SIR: Your letter addressed to this office on the 23d ultimo has been received, stating that The Litchfield Club, of which you are secretary, is "open from June to October each year," and that during the summer amateur dramatics, musicales, etc., are sometimes given by the members and their friends, who volunteer their services, and "the proceeds of such entertainments are used toward defraying running expenses of the club;" and you ask whether you "are required to take out a license under the provisions of section 2 of an act to provide ways and means to meet war expenditures, etc."

As these exhibitions are not given by the club for any charitable or public objects, but are solely for the benefit of the club, it is held that special tax must be paid therefor by the club under paragraph 8 of section 2 of the act of June 13, 1898, and reckoned from the first day of the month in which the liability begins to the 1st day of July following (section 3237, Revised Statutes, amended) at the rate of $10 for the year beginning July 1.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES WOODRUFF, *Litchfield, Conn.*

(20064.)

Special tax—Parks.

A railroad company which has a park to promote excursions, although no admittance is charged, and no charge is made for reserved seats, must pay a special tax as an exhibition or show for money.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 16, 1898.

SIR: This office is in receipt of a letter from Mr. William M. Cole, general superintendent of the West Side Railroad Company of Elmira, N. Y., under date of the 22d ultimo, * * * stating that said "railroad runs to a city park in conjunction with another street railroad. The two railroads maintain a mild attraction at the park, to witness which no charge is made whatsoever. This attraction is maintained to promote excursions over the steam railroads and to draw people to the park. Everybody is admitted free of charge and no charge is even made for reserved seats. The only revenue derived is in the possible

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increase of traffic to the street railroad, and the passengers only pay their regular fare;" and asking whether or not such an attraction subjects them to the special tax placed upon places of amusement which are maintained by receiving gate receipts.

In reply, you will please inform him that his company is subject to a special tax under paragraph 8, section 2, act of June 13, 1898, in consequence of maintaining such an exhibition at the park for the purpose of inducing large numbers of persons to travel on their railroad train and thereby increase the profit of the company.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. V. FLECKENSTEIN,
Collector Twenty-eighth District, Rochester, N. Y.

(20115.)

Special tax—Merry-go-round.

A merry-go-round set up at fairs not an exhibition or show subject to special tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 28, 1898.

SIR: In reply to your letter of August 25, asking whether or not a merry-go-round set up at fairs, etc., with or without tent inclosure, is subject to special tax as a show, you are advised that said mechanical contrivance for amusement of children is not an exhibition or show within the meaning of the law, and is not subject to special tax under paragraph 8, section 2, of the act of June 13, 1898.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. J. DAUGHERTY, *Collector Fifth District, Peoria, Ill.*

(20121.)

Special tax—Nickel-in-slot machine.

Special tax is not required to be paid under paragraph 8 of section 2 of the act of June 13, 1898, for the artoscope, a nickel-in-slot machine set up in stores or other places, automatically showing pictures from the dropping of a nickel into the slot; but if, in an exhibition hall, a number of these machines be set up, the proprietor of such hall or public place of exhibition must pay special tax under that paragraph.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 30, 1898.

GENTLEMEN: Your letter of the 23d instant has been received, submitting the question whether the machine which you manufacture, called the "artoscope," described by you as a "nickel-in-the-slot machine, which, when a nickel is dropped into the slot, automatically shows 12 pictures to the single person viewing same through eyepiece,"

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is subject to special tax under paragraph 8 of section 2 of the act of June 13, 1898.

You say:

These machines are placed mostly in stores—seldom more than one in any place. We sell these machines for $20 to $25, and the collections by our customers show average earnings of about 25 cents per day.

The machine in question placed in a store, as you state, is not regarded by this office as such a public exhibition or show as is contemplated by the statute, and special tax is not required therefor; but if, in an exhibition hall, a number of these machines should be set up, the proprietor of such hall or public place of exhibition should pay a special tax under that paragraph, at the rate of $10, reckoned from the first day of the month in which such exhibition is opened to the 1st day of July following. (Section 3237, Rev. Stat., as amended.)

Respectfully, yours, N. B. SCOTT, *Commissioner.*

J. W. STIRRUP MANUFACTURING COMPANY, *New York, N. Y.*

(20123.)

Special tax—Illustrated lectures.

No special tax is required to be paid for an illustrated lecture if the money derived therefrom is devoted exclusively to the use of an educational association.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 30, 1898.

SIR: I have received your letter of the 22d instant, submitting the question whether your association is required to pay the special tax of $10 a year, under paragraph 8 of section 2 of the act of June 13, 1898, on account of "a series of lectures under the University Extension system," commencing September 27, in which lectures "the lantern will be used to illustrate the subjects in hand."

If the lectures thus illustrated be given "for money," within the meaning of these words in the statute, and the money thus derived be distributed for the profit of the persons concerned therein, a special tax amounting to $8.33 would be required to be paid under the paragraph of the statute above referred to. The stamp issued upon the payment of this tax would be sufficient to cover the entire course of lectures for the year ending June 30, 1899. But it is understood from your letter that these illustrated lectures are to be given "for educational purposes" only, and that the money derived from the public who pay for admission thereto is to be devoted exclusively to the use of the Educational Association of New Rochelle to carry out these purposes. If so, this office as at present advised would not regard your association as subject to the special tax in question on account thereof.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. ARTHUR H. ELLIOTT,
President New Rochelle Educational Association, New York.

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(20124.)

Special tax—Harvest show.

A harvest show, with an evening entertainment by local talent, for the benefit of a grange, not required to pay special tax as an exhibition or show.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 3, 1898.

SIR: Herewith is returned to you, at your request, the letter addressed to you by Mr. M. Morse, of Fairmount Farm, Medway, Mass., stating that the New England Homestead Grange, of East Medway, has been called upon to pay a special tax of $10 under paragraph 8 of section 2 of the act of June 13, 1898, for a "harvest show and supper, with an evening entertainment by local talent," given for the purpose of having "a pleasant social time and, incidentally, to put a few dollars, if possible, into the grange treasury."

The collector at Boston, Mr. James D. Gill, has to-day been informed that, in my reply to your letter, it has been held that an entertainment of this kind is not among the public exhibitions or shows contemplated by that paragraph; and, further, that, as at present advised, this office would not regard any of the entertainments from time to time given by granges, churches, schools, and village societies as coming within the meaning of that paragraph.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. HERBERT MYRICK,
President and Editor Phelps Publishing Co., Springfield, Mass.

(20165.)

Special tax—Fortune telling.

The telling of fortunes for money is not such a business or exhibition as involves the fortune teller in special-tax liability under section 2 of the act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 11, 1898.

SIR: In a letter addressed to this office on the 8th instant, signed "Roving Franks, Gypsies, 53 Pleasant street, Fall River, Mass.," the writer states that he is a horse trader, and that himself "and wife travel by wagon every summer, and in winter * * * camp, telling fortunes by palmistry, and charge 10 cents to have one's fortune told," and inquires whether they "have to pay a revenue license to run this 'gypsies' fortune-telling business." * * * You will please inform them in the negative. The special-tax provisions of section 2 of the act of June 13, 1898, do not apply to such a case as this.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES D. GILL, *Collector Third District, Boston, Mass.*

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(20190.)

Special tax—Exhibitions.

An athletic association giving exhibitions on its field or within its inclosed grounds, for money, is required to pay special tax under the eighth paragraph of section 2 of the act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 12, 1898.

SIR: Mr. Bruno Batt, of the board of financial control, Ravenswood Athletic Field (1240 Ravenswood Park), Chicago, has submitted to this office the question of the special tax liability of the Ravenswood Athletic Field on account of exhibitions, from time to time, on that field, to which he refers as follows:

The Chicago Associated Cycling Clubs manage our bicycle events, the American Athletic Association our baseball games. The Chicago Athletic Association is about to take care of the football. Our track is ruled by the L. A. W. We allow professionals to perform on the field for part of the gate receipts.

Upon this statement of facts you may inform Mr. Batt that the Ravenswood Athletic Field should pay special tax under the eighth paragraph of section 2 of the act of June 13, 1898. The stamp issued upon the payment of this tax will cover all the exhibitions, races, etc., to which he refers, up to the end of the present special-tax year, June 30, 1899. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. E. COYNE, *Collector First District, Chicago, Ill.*

(20228.)

Special tax—Football, baseball, etc.

Special tax is not required to be paid for an occasional game of football, baseball, or other game given by local clubs where an admission price is charged, not for profit, but merely to cover expenses.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 19, 1898.

SIR: In reply to your letter of the 14th instant, you are hereby advised that while the special tax under paragraph 8 of section 2 of the act of June 13, 1898, is required to be paid for exhibitions, on any field, throughout a season of games of football, baseball, etc., where money is collected for admission to the field, yet it is held that the terms of this paragraph were not intended to include an occasional game of football, baseball, or other game given by a local club to which a price

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of admission is charged, not for profit (as in the case of the professional baseball clubs), but merely "to cover expenses," as you state.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. CHAS. C. COLE, *Collector Twenty-first District, Syracuse, N. Y.*

(20238.)

Special tax—Exhibitions.

A person who has a store show consisting of a few monkeys, etc., must pay the special tax of $10.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 24, 1898.

SIR: In reply to a letter addressed to this office by Mr. C. G. Roberts, at the Occidental Hotel, Broome street, corner Bowery, New York, concerning a "store show," which he states he wishes to "open in city of New York, 141 Bowery, on or about 1st of November," and which he describes as consisting of "a few monkeys, one panther, two leopards, some snakes, canary birds, and parrots," and "also two or three illusions," you will please inform him that the exhibition thus described is not regarded by this office as coming under paragraph 7 of section 2 of the act of June 13, 1898, as a circus. It comes under paragraph 8, and the special tax, reckoned from the first day of the month in which it is opened to the 1st day of July following, at the rate of $10 for the year beginning July 1, is required to be paid therefor. You will also please inform him that the special-tax stamp which he states he has taken out for this same exhibition in Rochester will not answer for the exhibition at 141 Bowery, New York, unless he entirely closes the exhibition in Rochester and has his special-tax stamp registered with the collector there as transferred to your district, and thereupon registers it with you, in accordance with the last clause of section 3241, Revised Statutes.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

(20242.)

Special tax—Theatrical entertainment.

Amateur theatrical entertainment for the benefit of a fire department is held not to be subject to special tax as a public exhibition or show for money.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 25, 1898.

SIR: Mr. Carl Shafer, writing from Richmondville, N. Y., to this office, under date of the 17th instant, inquires "if a theatrical enter-

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tainment (amateur) for the benefit of a fire department is subject to a tax under the present United States revenue laws."

* * * You will please inform him that the entertainment in question, given for the purpose which he indicates, is not regarded by this office as coming within the meaning or intent of the eighth paragraph of section 2 of the act of June 13, 1898, and special tax is not required to be paid therefor.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. JOHN G. WARD, *Collector Fourteenth District, Albany, N. Y.*

(20261.)

Special tax—Phonograph parlors.

Although the public is not charged for admission to the parlor, hall, or place of exhibition, yet as the phonographs are kept there for the purpose of making money, they are to be regarded as shows for money within the meaning of the law, and special tax must be paid for such exhibition parlor or hall.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 26, 1898.

SIR: In reply to your letter of the 19th instant, concerning "phonograph parlors," you are hereby advised that although the public is not charged for admission to the parlor, hall, or place of exhibition, yet as the phonographs are kept there by the proprietors of the establishment for the purpose of making money, they are to be regarded as shows for money within the meaning of the eighth paragraph of section 2 of the act of June 13, 1898, and special tax must be paid for such exhibition parlor or hall.

You may apply to cases of this kind the ruling 20121, relating to "nickel-in-the-slot machines" (page 155).

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. WEBSTER FLANAGAN, *Collector Third District, Austin, Tex.*

(20270.)

Special tax—Concert halls.

Concert halls in cities having more than 25,000 population, as shown by the last census, to which a nominal entrance fee is charged, are subject to special tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 31, 1898.

SIR: In reply to your letter of the 27th instant, concerning concert halls conducted, in connection with saloons, in cities having more than 25,000 population, as shown by the last United States census, to which

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a nominal entrance fee is charged, you are hereby advised that, even though this entrance money is merely "nominal," it is held by this office that the proprietors of these concert halls come within the meaning and intent of paragraph 6 of section 2 of the act of June 13, 1898, and that they must pay special tax accordingly.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. C. COLE, *Collector Twenty-first District, Syracuse, N. Y.*

(20271.)

Special tax—Fair associations.

Where a fair association hires a man at a stated salary to furnish a special attraction (chariot races, hippodrome races, and "a few Wild West acts"), the special tax should be paid by the association and not by the man hired.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 31, 1898.

SIR: Mr. A. J. Kemp, manager of "Kemp's Hippodrome and Congress of Wild West Riders," in a letter addressed to this office on the 22d instant, submits the question as to who is to pay the special tax in a case where a fair association hires a man at a stated salary to furnish "a special attraction (chariot races, hippodrome races, and a few Wild West acts)," and the "fair association * * * charges the admission."

* * * You will please inform Mr. Kemp that as this exhibition or show (as shown by the facts stated by him) given by the fair association, the special tax should be paid by that association and not by the man hired, at a salary, by them to conduct the performance.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. RICHARD YATES, *Collector Eighth District, Springfield, Ill.*

(20273.)

Special tax—Bands in city parks.

The merely occasional playing of a band in a city park, although the band is paid by a railroad company, is not regarded as subjecting the band or the company to special tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 31, 1898.

SIR: In a letter addressed to this office on the 14th instant, Mr. George C. Wilson, a lawyer in Pittsburg (Times building), states that the Consolidated Traction Company of that city has a line of cars passing a public park, the park being "owned and maintained entirely by

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the city of Pittsburg," and that "occasionally a * * * concert is given in the public park, the Traction Company paying for the band," but "no charge is made for admission." He inquires whether, upon these facts, there is liability on the part of any person to pay a special tax. * * * You will please advise him in the negative.

The merely occasional playing of a band in a city park, even though the band is paid by a railway company, is not regarded by this office (as at present advised) as coming within any of the provisions of the second section of the war-revenue act imposing special tax.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAS. S. FRUIT, *Collector Twenty-third District, Pittsburg, Pa.*

(20314.)

Special tax—Pianoforte lecture recitals.

Special tax is not required to be paid for lectures with a pianoforte recital as an incident thereto.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 10, 1898.

SIR: Mr. Edward Baxter Perry, 140 Boylston street, Boston, in a letter addressed to this office on the 30th ultimo, submits the question of his special-tax liability, under paragraph 8 of section 2 of the act of June 13, 1898, for his "public pianoforte lecture recitals."

It is held that a lecture with picture illustrations, to which an admission fee is charged, constitutes a public exhibition or show for money, for which special tax must be paid under that paragraph. But a lecture merely, or a lecture such as Mr. Perry gives, with a pianoforte recital as an incident thereto, is not regarded by this office, as at present advised, as an exhibition or show within the meaning of that paragraph, and special tax is not required to be paid therefor.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES D. GILL, *Collector Third District, Boston, Mass.*

(20315.)

Special tax—Lectures.

Lectures on chemistry and physics, accompanied by the necessary experiments, are not among the public exhibitions or shows for money contemplated by the eighth paragraph of section 2 of the act of June 13, 1898, for which special tax is required to be paid.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 10, 1898.

SIR: Mr. Lewis Favour, of Winnetka, Cook County, Ill., has addressed to this office, under date of the 28th ultimo, an inquiry as to

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whether he is subject to special tax for giving "lectures on chemistry and physics, these lectures being accompanied by the necessary experiments," in which he does "not use a lantern or stereopticon."

* * * You will please inform him that it is held by this office that, although he is "under the management of different lyceum bureaus" and receives pay for his lectures (as he states), these lectures do not come under the head of a public exhibition or show within the meaning of the eighth paragraph of section 2 of the war-revenue act, and that special tax is not required to be paid by him therefor under that act.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. E. COYNE, *Collector First District, Chicago, Ill.*

(20319.)

Special tax—Show.

An entertainment, with music, given by a firm of merchants to attract the public to an annual display in connection with their store, is held not to be a public exhibition or show for which special tax is required to be paid under section 2 of the war-revenue act.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 11, 1898.

SIR: Your letter of the 2d instant has been received, concerning the revenue agent's report of the liability of Siegel, Cooper & Co. to special tax under paragraph 8 of section 2 of the war-revenue act for giving a show in their store, and inclosing a letter from Siegel, Cooper & Co., in which they say that they sign the return, Form 11, under protest for the purpose of obtaining a ruling on the question, and state the facts in the case as follows:

On or about October 2 we opened our annual demonstration of pure foods in connection with our grocery department, and for the entertainment of visitors engaged an orchestra to play and a quartette of cake walkers to walk, going through the movements of what is called "cake walking." This special demonstration of pure foods was discontinued October 15 or 16, and with it the music and cake walk.

It is held by this office that this is not a public exhibition or show for money within the meaning of the eighth paragraph of section 2 of the act of June 13, 1898; and you may so inform Siegel, Cooper & Co., and that special tax is not required to be paid therefor under the war-revenue act.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. E. COYNE, *Collector First District, Chicago, Ill.*

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(20337.)

Special tax—Exhibitions.

The Erosophian Society of Lombard University, at Galesburg, Ill., is not required to pay special tax for exhibitions where the proceeds are devoted to the university.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 16, 1898.

SIR: I have received your letter of the 12th instant, referring to my reply of the 10th ultimo to your inquiry as to the special tax liability of the Erosophian Society of Lombard University, at Galesburg, under paragraph 8 of section 2 of the war-revenue act, on account of exhibitions given by them, in which you are informed that they must pay special tax if their exhibitions are given "for money" and the proceeds are to be devoted to the profit of the society, and not to any charitable purpose, or to any other object for the public good.

You now transmit a letter signed by the president of this society, Mr. E. W. Watson, and the secretary *pro tem.*, Mr. W. D. Buchanan, in which they certify that "the Erosophian Society of Lombard University, under whose management the Lombard Star Course is being conducted, has voted and hereby promises to turn over to the university all profits accruing from said course." This being the case, you are hereby advised that, in the opinion of this office, it is not such a public exhibition or show for money as the statute contemplates, and that special tax is not required to be paid therefor.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. J. DAUGHERTY, *Collector Fifth District, Peoria, Ill.*

(20367.)

Special tax—Show.

A fair or entertainment given by a fraternal organization, the proceeds of which are to be devoted to "sick benefits" or like objects, is held not to be such an exhibition or show as is contemplated by the eighth paragraph of section 2 of the act of June 13, 1898; special tax is not required to be paid therefor, nor is special tax required to be paid under that paragraph for a "harvest home festival."

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 21, 1898.

SIR: I reply as follows to the several questions submitted in your letter addressed to this office on the 16th instant:

(1) A fair or entertainment given by a fraternal organization (even though the public pay for admission) is held not to be such an exhibition or show as is contemplated by the eighth paragraph of section 2 of

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the act of June 13, 1898, if the proceeds are to be devoted to "sick benefits" or to other like objects, and special tax is not required to be paid therefor under this act.

(2) A draft or order drawn on the treasurer of such an organization by another of its officers for the payment of money to a third person, whether "for payment of bills" or for "sick benefits," as you state, or for any other purpose, requires a 2-cent stamp under Schedule A of this act.

(3) An entertainment given by a grange of the Patrons of Husbandry, such as a "harvest-home festival" or the like, is not regarded as such a public exhibition or show for money as the statute contemplates, and special tax is not required to be paid therefor.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. B. F. WAYNE, *Metcalf, Mass.*

EXPRESS COMPANIES.

(*See* BILLS OF LADING; MANIFESTS; RECEIPTS.)

INSURANCE COMPANIES.

ACCIDENT.

(20022.)

Stamp tax—Accident insurance policies.

Monthly reports can not be made in installment insurance—No rebate or refund for stamps or policies surrendered for changes in terms or canceled upon the return of all or any part of the premium.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 7, 1898.

SIR: This office acknowledges the receipt of your letter of July 9, 1898, and the subjects mentioned therein have been given careful consideration.

It is the desire and policy of this office to render assistance to and afford facilities in the operations of all persons or corporations in the exercise of their business functions, and not to arbitrarily compel compliance with the law when the law is susceptible of such a construction as would justify concessions to taxpayers.

In construing the act, it must be done with perfect impartiality and in entire consistency with the rights of all persons affected. The Government's revenue must first be protected, while to grant the concessions that have been asked by your company, and others writing similar

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insurance, might not result in bringing in less revenue, yet the form of return that you ask for would be repugnant to the provisions relating to the manner of collecting revenue in the instances mentioned by you. The law specifically provides how the revenue shall be raised in these instances. It is by stamps bought, affixed, and canceled. The instrument that is taxed should carry with it the evidence of the compliance with the law, and you have asked this office to allow you to make reports at stated periods and remit therewith the amount of stamp taxes required upon the instruments issued by you instead of stamping these instruments, because of the trifling amount of the premium in each case (*i. e.*, railroad ticket insurance, policies issued with the sale of goods, etc.), it would be extremely difficult and burdensome to stamp each and every instrument on issue. This office is of the opinion, and so holds, that this concession asked, viz, "of reporting at the end of specific periods," can not be granted. Where the instrument is subject to a definite tax that can be determined at its issue, it must have affixed and canceled the stamp that the law requires, be it large or small. This decision is reached after having given the subject careful consideration in reference to the multitudinous effects that a contrary decision might produce.

In regard to your second statement, with reference to rebate or refund from the Government for revenue stamps upon policies of insurance or renewals which have been canceled by mistake, or upon policies surrendered for changes in terms or surrendered and canceled upon the return of all or any portion of the premium for any unexpired term, this office informs you that it can not make any provisions for refund for stamps canceled by mistake. Such a provision, if granted, would lead to interminable difficulties in other cases, in all of which the claim would be made that the stamp was canceled by mistake.

In regard to policies surrendered for changes in terms or surrendered and canceled upon the return of all or any portion of the premium for any unexpired time, it is held that in both instances it is the pleasure and desire of the parties interested to so have the policy changed in terms or surrendered or canceled. That policy which was originally issued, and which did and must have had its appropriate stamp, is not longer desired. The original intent is changed, and a ruling is asked to meet this changed intention. It can not be granted. If it were, every deed, promissory note, draft, etc., that failed of its first intent would and could come in under such a ruling. If the policy is issued it must bear its stamp. If it fails of its purpose and intent, this office can not make a provision that would cover such a contingency.

All insurance companies charge a premium, the amount of which is arrived at after due consideration of the percentage of lapses, deaths, accidents, changes, etc. These are contingencies almost mathematically determinable, and this would seem to be all the protection that would be needed in such cases.

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[1] See also decision 19973 p. 182.

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This office can not afford any assistance on this point. The same holds good in reference to your installment insurance. This kind of insurance is effected for a period that is certain and for a premium that is fixed. Although the premium is payable in installments, it appears from your application blank, statement 13— "I wish the policy written for four consecutive periods of two, two, three, and five months, respectively, from the date below, each period covered by a distinct premium, to be paid respectively from my wages for the months of ———; and I agree that the policy shall embrace four separate insurance contracts, and shall remain in force after the first insurance period only as continued by payments of premium for the consecutive periods following; and that I will make no claim for injuries effected during any period for which its respective premium has not been actually paid"—that this insurance is desired for one year, for statement 14 states that the total premium for the four periods is $———

Your company reserves the right to cancel the policy for any period not paid for, or rather the policy shall be void for that period that is not paid for. This contingency of not paying for a period—in other words, allowing the policy to lapse—is a contingency that this office can not make an allowance for under this law. Such a decision would entail upon the force of the internal revenue countless difficulties. While the desire to benefit you is great, the difficulties are such that compel a denial of the request that you ask; the protection, if there is any, is elsewhere than through this office.

These facts you will thoroughly appreciate after due reflection of the circumstances as viewed from the standpoint of this office.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. S. C. DUNHAM,
Counsel Travelers' Insurance Company, Hartford, Conn.

(20027.)

Stamp tax—Accident insurance policies.

Policies of insurance or renewal receipts not subject to taxation until issued—Issue defined—Taxation based on premium regardless of its payment in installments—The policy must have the stamp affixed to it; the application must not be stamped.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 8, 1898.

SIR: This office is in receipt of your letters of June 28 and August 18, and three letters, under date of August 29, September 2, and September 3, to Maj. George H. Hopkins, your second vice-president, which were left by that gentleman at this office.

The questions presented in your letters have been given careful consideration.

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In your letter of the 28th you state that the failure to provide for one-half-cent stamps involves the payment of a full cent in many cases where but the fractional part of a dollar is involved.

You are advised that stamps are issued of the value of one-half of one cent, and the collector or any of his deputies for your district will furnish you, upon application, with these internal revenue stamps.

The second matter to which you call attention is the stamping of policies before delivery, and also the stamping of renewal receipts.

You are informed that neither the policy nor renewal receipt are subject to taxation until they are issued. This is a question of fact that is determinable in each instance. Your agent, before delivering the policy, can affix and cancel the stamp. It is not necessary to stamp it when it leaves the main office. This office does not consider that it is issued until it leaves your company or your company's representative and is operative in the hands of some one else not representing your company. This latter would seem to be an issuing of the policy. If the policy is delivered or issued it should be stamped regardless of the fact that it may be held only for a short period by the insured.

In regard to policies of insurance payable in monthly installments, you are informed that the policy itself is the instrument that is taxed, not the installments representing the payment. The amount of taxation is based on the premium charged, irrespective of the manner of payment of the premium.

You state that the failure to pay any of the monthly installments works the cancellation of the policy, which would otherwise run for a year or indefinitely, and that here again is the prospect of paying the full tax for the least benefit.

This office regrets that it can not assist you in regard to the manner of paying the stamp tax on such policies by making monthly returns based upon the amount of premium received.

It is true that there is one exception in the act, which relates to industrial insurance. This office can not assume legislative functions to make another exception.

This question has been considered in all its phases, and this decision is reached after having viewed the situation from all standpoints.

These policies of accident insurance are all issued for a definite period and for a fixed premium. The law states that the policy is the instrument that is subject to taxation, and it should have affixed and canceled the stamp that is appropriate to the amount of premium charged.

You have asked to be allowed to stamp the application for insurance instead of the policy, and to affix a stamp every time an installment is paid.

This request must be denied. This office can not provide for the contingencies of lapses, deaths, changes, etc. The premium is fixed and the stamp must be affixed when the policy is issued, whether the installments are paid or not.

In regard to the question of stamping renewals of business written

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prior to July 1, 1898, you are advised that on life policies the fact that annual or semiannual payments are made is not considered a renewal of the policy which would subject the receipt to taxation. If, however, the policy is written for a certain period, such as one year, the receipt that renews the policy is subject to taxation, though the business was written prior to July 1, 1898. Such renewal receipts are in effect new policies for the term mentioned in the receipt.

In regard to the orders that a railroad employee gives on his paymaster, providing for the payment of the four premiums in installment insurance, you are advised that this office considers this to be an order for the payment of money in four installments, and subject to a tax of 2 cents only.

I regret that the concessions that you have asked for can not be granted. The circumstances attending these cases are such that this office would be led into interminable difficulties if your requests were met. * * *

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. W. C. MAYBURY,
Managing Director, Standard Life and Accident Insurance Company, Detroit, Mich.

FIRE.

(19620.)

Stamp act—Premium notes.

Stamps must be affixed to premium notes as well as to policies.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 2, 1898.

SIR: Mr. R. J. Taylor, manager of the loss department of the Continental Insurance Company, 46 Cedar street, New York, in a letter to this office, dated the 24th ultimo, states that his company takes notes for premiums on farm business in the Western States, which notes represent the amount of premium stated in the policy. He inquires whether a stamp must be affixed to these premium notes as well as to the policies issued on such notes.

* * * You will please advise him in the affirmative. There appears to be nothing in Schedule A of the act of June 13, 1898, which could warrant this office in holding that the stamp tax which this act imposes upon all promissory notes is not imposed on the notes in question on the ground that tax is paid on the policies of insurance to which they refer.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

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(19651.)

Stamp tax—Mutual insurance companies.

Ruling as to mutual fire-insurance companies—In what cases exemption applies.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 7, 1898.

SIR: Your letter of the 22d ultimo has been received, submitting a question as to the construction of the proviso in relation to marine, inland, and fire-insurance companies (act June 13, 1898). The provision is—

That purely cooperative or mutual fire-insurance companies, carried on by the members thereof solely for the protection of their own property and not for profit, shall be exempted from the tax herein provided.

There is no doubt but that any mutual fire-insurance company which comes strictly within the language of this provision would be exempt from the tax, but whether any particular company is exempt or not depends wholly upon the facts. The company at whose instance you submit the inquiry is the Mutual Fire Insurance Company of Albany. The statement made by this company is that it has been a purely mutual company since the date of its incorporation, May 13, 1886; that it is managed by a board of directors (trustees), elected annually by the members (policy holders). The premiums received from the members on policies issued for their benefit are placed in a common fund along with income from *investment of surplus funds*. Provisions are made under certain policies whereby the policy holders (members) will contribute to meet excess of losses in proportion to the liability assumed by them under their policies. They have no capital stock, and therefore no stockholders. The company is operated, and always has been, for the benefit of members (policy holders).

It is understood from the provision herein referred to that the intention was to exempt from the tax simply those companies where a number of persons associated themselves together as companies or cooperative associations in business to be carried on by the members solely for the protection of their own property and for nothing more. Whenever the business of the association or company goes beyond the point of protection for their own property, then such association or company is taken out of the exemption provided by the act.

It is, then, purely a question of fact. Do the members of this company do more than mutually protect each other in case of loss by fire? Do profits arise from the business of this company? Has the company a surplus which it invests and from which it realizes profit to the members of the company? If it does, it can not be included within the exemption, no matter what the company may say is the purpose for which it is organized and operated. If, in fact, it carries on its busi-

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ness for profit or benefit to the company or its members save that of mutual protection to the property of the members, then it is not exempt.

It appears from the facts in connection with this company that nothing is required to become a member of the company except to become a policy holder. In other words, every person who insures in this company and procures a policy of insurance is, *ipso facto*, a member of the company.

Any insurance company might call itself mutual and declare every policy holder a member and still conduct a general insurance business for profit and for purposes other than solely for the protection of property insured by it.

It was certainly not the intention of the lawmakers to permit companies of this character to avoid the payment of the tax prescribed.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JOHN G. WARD,
Collector Fourteenth District, Albany, N. Y.

(19836.)

Stamp tax—Reinsurance.

Reinsurance of insurance policy in other companies—Reinsurance not taxable if original policy is properly stamped and the reinsurer receives but its proportionate part of premium and assumes but its proportionate liability. If, however, the risk becomes extra hazardous, and there is reinsurance effected, the extra premium paid is taxable.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 5, 1898.

SIR: A letter from Mr. Thomas S. Chard, manager of the Fireman's Fund Insurance Company, 153–155 La Salle street, Chicago, has come under notice.

Mr. Chard submits to this office the question of the liability to stamp tax of contracts of reinsurance. He also sets forth at length the nature and method of reinsurance. From his statement reinsurance is understood to be an assumption by one insurance company of some portion of a risk which has been taken in full by another company and a policy duly issued therefor. This is not done by the issuance of another policy, but is effected, in accordance with a preceding contract between the companies by an entry made by the insuring company in a register belonging to the reinsuring company, but kept for this purpose on the premises of the former. This entry is accepted by both companies as the yielding or cession by the insuring company to the reinsuring company of a certain portion of the risk taken and for which a policy has been issued by the former, and as an acceptance by the reinsuring company of such portion of the risk as has been yielded to it and an assumption of responsibility therefor to the insuring company.

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The effect of this reinsurance, so far as the stamp tax is concerned, appears to be the same as if originally a policy has been issued by each company for the portions of the total risk which each respectively assumes. The total tax paid in such case on both policies would be the same as is paid under the plan actually followed by the insuring company on its single policy.

As a new policy is not issued in this transaction, and as the full amount of tax due, in accordance with the amount of insurance upon property actually taken, is paid by the stamps affixed to the policy of the insuring company, and as the entry in the register referred to is not an undertaking of a new insurance upon property, but an agreement to share in the obligation and responsibility for an insurance already undertaken, such entry does not seem to come within the definition of a policy of insurance or other instrument by which insurance shall be made upon property of any description, and is not, therefore, subject to stamp tax under Schedule A. This conclusion, however, rests upon the supposition that the division of the risk is attended with a credit to the reinsuring company of only, or not exceeding, its proportionate part of the premium paid.

But in case the risk should become extra hazardous, and for this, or for any reason, a reinsurance should be sought and should be obtained only upon payment by the insuring company of an extra premium beyond the customary proportionate share of the original premium, then the extra premium is evidence that the transaction is not merely a division of the primary risk, but is, to the extent of the extra premium, an actual insurance of the primary insuring company against an apprehended loss. The extra premium is, therefore, taxable, and if there be no other instrument or paper writing in evidence of this contract which can be stamped, then the proper stamp, duly canceled, may be affixed to the margin of the page in said register, opposite the entry therein made of such reinsurance. The amount of such extra premium should be set forth in said entry, and the register must be open to inspection by internal-revenue officers. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. FREDERICK E. COYNE, *Collector First District, Chicago, Ill.*

(19963.)

Stamp tax—Policies of reinsurance.

Distinction between forms of reinsurance—When reinsurance is effected by general agreement, as stated below, it is exempt from taxation—Where policy is issued it is subject to taxation.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 24, 1898.

SIR: This office is in receipt of a letter from S. D. Hawley & Son, insurance agents, 140 South Fourth street, under date of August 18.

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These gentlemen write in reference to reinsurance, and I have to advise you that the letter sent you from this office under date of August 10, containing rulings on reinsurance, was probably misunderstood.

Mr. Hawley states that "There are two forms or manners of conducting reinsurance—first, by general contract or written agreement whereby the acceptance of a risk by the first company immediately binds the second, or the same effect is produced by entries for specific causes. In neither circumstance is a policy issued."

This form of reinsurance is exempt from taxation. It represents a cession made by the insuring company to the reinsuring company of a certain portion of risk taken, and for which a policy has been issued by the insuring company, and as an acceptance by the reinsuring company of such portion of the risk as has been yielded to it, and an assumption of responsibility, therefore, to the insuring company. In these instances the reinsurance is not subject to taxation.

In case the risk should become extra hazardous in the above instances and an extra premium should be demanded beyond the customary proportionate part of the original premium, then the extra premium is evidence that the transaction is not merely a division of the primary risk, but is, to the extent of the extra premium, an actual insurance of the primary insuring company against an apprehended loss. The extra premium is in these cases, therefore, taxable, and the evidence of this contract should be properly stamped, whether it be a policy or assumed by an entry made in a register, or in any other manner. The amount of such extra premium should be set forth, and if the insuring is made in a register the same should be open to inspection by the internal-revenue officer.

The second form of reinsurance "is carried on mostly by agents of companies for their own convenience, and in every distinct and separate case there is a policy issued and delivered by the second company to the first." When reinsurance is effected in this manner the policy of insurance issued by the reinsuring company is subject to taxation. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. P. A. MCCLAIN, *Collector First District, Philadelphia, Pa.*

(20020.)

Stamp tax—Insurance policies.

Policies of mutual insurance companies, when taxable and when exempt—When the receipts of the company are invested and profit accrues the policies are subject to taxation.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 2, 1898.

SIR: I am in receipt of your letter of August 22, 1898.

You are the president and treasurer of the Middlesex Mutual Assurance Company, and your letter is written in reference to the policies issued by your company, and you ask, Are they exempt from taxation?

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You inquire, Is it the opinion of this office that a mutual company, having no capital stock, and in carrying on its business solely for the protection of its members, who are the policy holders, can not be in receipt of premiums in excess of losses and expenses without becoming liable for this tax? In other words, if the members of the company pay into the common fund more than appears to be required to meet losses and expenses, and it is held against liabilities on their policies in force and against the chance of increased losses, and while so held is invested in income-bearing securities, would these facts place the company under legal obligations to stamp their policies?

You are informed that purely cooperative or mutual fire insurance companies, carried on by the members thereof solely for the protection of their own property and not for profit, shall be exempted from the tax provided by the act of June 13, 1898. If the receipts of your company are in excess of your liabilities, and they are invested and profit is made thereon, your policies would become taxable because your company would be conducting a business for profit, and the purely cooperative feature would be eliminated. The mere fact that there is no capital stock would not of itself render your company a purely cooperative company.

There are other features in mutual companies than these. Numbers of mutual companies are conducted for profit, and the profit is represented by investments, by reduction in premiums, and other incidents of profit. Companies of this class are subject to taxation.

The two determining clauses of the paragraph are that the insurance shall be solely for the protection of their own property, and, secondly, that no profit shall arise therefrom. If the insurance effected is not on the property of a member of the company it is not such a company as this clause exempts. If the insurance effected results in a profit to the members of the company, then it is not such a company whose policies are exempt from taxation.

You state in the last part of your letter that your company has not now, and probably will not have for some years to come, reserved funds in excess of the 2½ per cent which the legislature of your State requires you to retain to cover the amounts at risk. From this fact alone it seems that your company may at some time have a reserve fund in excess of 2½ per cent which you are compelled to retain to cover losses.

This office holds that this is sufficient to take your company out of exemption. Your policies are, therefore, subject to a stamp duty. Any other companies in your State conducted on the same plan and with the same purposes in view are subject to a tax on the policies that they issue.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. O. VINCENT COFFIN,
President Middlesex Mutual Assurance Company,
Middletown, Conn.

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(20034.)

Stamp tax—Insurance policies.

Tax on insurance policies issued by foreign insurance companies having agencies in the United States.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 14, 1898.

SIR: This office has received information which leads it to believe that the various taxes imposed by Schedule A of the war revenue act on policies of insurance of all kinds are not being paid and collected so far as they are issued by foreign insurance companies having agencies in this country.

This office holds that all policies of insurance issued and delivered in the United States affecting the lives and property of the residents of this country are liable to the same tax, whether issued by foreign or domestic companies. To hold otherwise would be to construe the law in a manner so absurd as to declare that Congress intended to discriminate against our citizens carrying on the insurance business and give their foreign competitors possession of the field.

I desire that you or some of your most competent assistants will, as soon as practicable, make an examination of the foreign insurance agencies in New York City and vicinity, and ascertain whether said companies have been stamping the policies issued by them according to the rates prescribed in Schedule A. If there is reason to believe that such policies have not been duly stamped, you will call upon the proper agents to make returns to the collectors of internal revenue for the districts in which the offices are located of all taxes so delinquent, and if in any case where there is reason to believe that unstamped policies have been issued the agents of the company refuse or neglect to make the proper returns, you will confer with the collector for the purpose of taking proceedings to make an assessment from the best information that can be obtained.

You will report all cases of delinquency found by you to the collector of internal revenue for the proper district and to this office.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. ROBERT WILLIAMS, *Revenue Agent, New York, N. Y.*

(20068.)

Stamp tax—Fire insurance policies.

Fire insurance policy—When assigned or transferred, taxed in proportion to the unearned premium.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 19, 1898.

SIR: This office is in receipt of a letter from William H. Furber & Son, 13 School street, Boston, Mass., under date of September 14, 1898.

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These gentlemen ask how a policy of insurance should be stamped when it is assigned or transferred to a new holder or owner of the property insured and one-half or two-thirds of the term has expired.

You will inform them * * * that such assignments of policies are subject to taxation in proportion to the unearned premium of the policy. This unearned premium is the basis of taxation, and computation is made on this amount.

Respectfully, yours, N. B. SCOTT, *Commissioner*

Mr. JAMES D. GILL, *Collector Internal Revenue, Boston, Mass.*

LIFE.

(*See also* DECISIONS 19841, p. 117; 19973, p. 182; 20235, p. 71.)

(19708.)

Stamp tax—Assignment of life insurance policy.

A stamp required upon assignment of a policy of insurance.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 18, 1898.

SIR: Messrs. H. M. Black & Co., bankers and brokers, 55 Broadway, New York, make the following inquiry through the Attorney-General, viz: Whether the stamp required upon the assignment of a policy of insurance shall be estimated by the amount of the face of the policy or the cash value of the policy at the time of assignment. The law says—

That upon each and every assignment of a policy of insurance a stamp duty shall be required and paid at the same rate as that imposed on the original instrument.

This language is plain and unmistakable, and can not be interpreted to mean other than that the stamp upon the assignment shall be the same as that required upon the original policy, and that the cash value of the policy at the time of the assignment does not affect the amount of tax. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. EIDMAN, *Collector Third District, New York, N. Y.*

(19741.)

Stamp tax—Life insurance policies.

A policy of insurance is not valid unless it bears the proper canceled revenue stamp—Stamps may be affixed by local agents when policies are delivered.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 20, 1898.

SIR: Your letter of the 12th instant, in regard to life insurance companies, has been received.

You state that life insurance companies are sending policies to their agents with a stamp inclosed or affixed, but not canceled, and that the

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instructions from the companies to agents are to collect from the insured party the premium and the value of the stamp.

The insured insist that the law contemplates payment of stamp tax by the company issuing the insurance, and decline to pay. The agents say they can not afford to lose the business for the value of the stamp, and they, too, insist that the companies have no right to shift this burden upon their shoulders, because they know the agent will pay for stamp rather than lose the business in case the insured declines.

You are informed that a policy does not require a stamp until it is issued or offered as an insurance policy, and the insurance company can stamp a policy through its local agents as well as through its general agent or head office. Any agent of the company who is charged with the duty of delivering the policy to the policy holder and receiving the premium is authorized to affix and cancel the stamp in behalf of the company.

If the company insists that the insured party pay the value of the stamp, it is not a matter which the internal-revenue laws can deal with. It is a matter between the insurance company and the policy holder.

A policy of insurance is not valid unless it bears the proper canceled revenue stamp.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. J. DAUGHERTY, *Collector Fifth District, Peoria, Ill.*

(19804.)

Stamp tax—Insurance companies.

Mutual life insurance companies liable to tax unless conducted for the benefit of the members, without profit to such members—Fraternal, beneficiary, and purely local companies defined.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 1, 1898.

SIR: I am in receipt of your letter of the 25th ultimo, requesting that you be informed whether policies of insurance issued by your companies (copies of which you submit) are taxable under the revenue act of June 13, 1898.

You state in your letter that the company (Security Mutual Life Insurance Company) is a purely cooperative or mutual company; that it issues no stock, and has no stockholders; and that all profits or surplus assets go to its members in the way of dividends, reduction of premiums, or additions to policies in case of death.

The act referred to in imposing tax on life insurance policies provides that the tax shall not apply "to any fraternal, beneficiary society, or order, or farmers' purely local cooperative company or association, or employees' relief associations operated on the lodge system, or local

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cooperation plan, organized and conducted solely by the members thereof for the exclusive benefit of its members and not for profit." It is clear from the language used that the exemptions made are not intended to apply to life insurance companies, although organized and conducted on the mutual plan, unless such companies are "fraternal," "beneficiary," or "purely local" in their character.

The term *fraternal* or *beneficiary*, as used in connection with life insurance companies, would seem to have no application to the company you represent; and admitting it to be a purely cooperative association as claimed, its business, it appears, is not confined to any particular locality, nor conducted exclusively for the benefit of its members *without profit.*

Upon examination of the form of policy submitted by you, I also find that the premiums charged are at certain fixed rates, and payable at stipulated times, as in the case of ordinary life insurance, and not according to the assessment plan usually adopted by cooperative insurance companies.

From the examination given, I am clearly of the opinion that the policies issued by your company do not come within the exemption referred to.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. W. JENKINS,
Counsel Security Mutual Life Insurance, Binghamton, N. Y.

(20059.)

First weekly premiums.

First weekly premiums received in various collection districts by local agents of life insurance companies may be included in the monthly returns rendered to the collector of the district in which such companies are located.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 14, 1898.

SIR: Referring to your letter of the 11th instant, and to office telegram of this date, in reference to returns to be made, under the revenue act of June 13, 1898, of first weekly premiums in case of life insurance companies issuing policies on the industrial or weekly payment plan, and having agents in several collection districts, you are informed that where, as is claimed, premiums collected by or charged to such agents can be determined and reported by the home company during the month in which the same are so collected or charged, all such premiums may be included in the return (Form 422) filed with the collector of the district in which the principal office of the company is located.

In such cases, however, each company will be required to state in its return (Form 422) that the return made includes and covers all first

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weekly premiums on policies issued by the company through its several agencies during the period named, specifying the States (and, if known, the collection district) in which such agencies are located.

The collector receiving such return will, if satisfied that the same is a true and accurate statement of all premiums so received, at once notify the collectors of the various districts in which the company's agencies are located that a return of the premiums received by the company from such agencies has been filed in his office; and collectors receiving such notification will not, in such cases, require returns to be made by the local agents of that company.

Upon filing each subsequent return the company will likewise specify the States or districts from which first weekly premiums have been received during the month, and when the list of States or districts so furnished is found to agree with that furnished with the last previous return made by the company, no further notification to the collectors in whose districts such agencies are located will be required.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

MR. CHAS. E. SAPP, *Collector Fifth District, Louisville, Ky.*

MARINE.

(20259.)

Stamp tax—Insurance policies.

Policies of insurance (marine) issued by foreign companies having no established agencies in the United States are nevertheless subject to the stamp tax when obtained by or through insurance brokers residing in this country.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 25, 1898.

SIR: I am in receipt, under your reference of the 4th instant, of the report of Special Employee Robert Towne, addressed to you on the 29th instant, also a letter from Mr. M. C. Harrison, insurance agent, of Portland, Oreg., in reference to certain marine-insurance policies issued by foreign companies to residents of this country, on which policies the premium tax imposed by the revenue act of June 13, 1898, has not been paid.

From the statements made, it appears that the policies in question were issued and delivered abroad, where suit for recovery thereon must be brought, and that the companies issuing such policies have no representatives in this country; that Mr. Harrison, as an insurance broker, obtained these policies through a London broker, with whom he "splits commissions," and that the premiums collected on these policies issued since July 1, 1898, aggregate $16,958, including $360 premiums on two policies written in Mr. Harrison's name and assigned by him, on which assignment also the required stamps were not affixed.

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While admitting that such assignments are subject to the stamp tax imposed, Mr. Harrison contends that the policies themselves when so issued and received are not subject to tax, and, even if subject to tax, that he is under no obligation to affix the required stamps, as he does not represent the companies or underwriters in any respect, but represents only the assured in such matters.

For reasons stated in decision 20034, page 175 (referred to in Mr. Towne's report) policies of insurance issued and delivered in the United States are liable to the same tax whether issued by foreign or domestic companies; and the reasons therein given apply with equal force to the policies issued in the present case, notwithstanding the fact that the companies issuing the same have no established agencies in this country. In the absence, therefore, of any established agency, the broker or agent through whom such foreign companies are enabled to issue insurance to residents of this country, will in all such cases be regarded as the agent of the companies, even where such agency is voluntarily assumed and without compensation; and the tax found to be due by reason of a failure to affix the required stamps to the policies so issued will in all such cases be assessed against such broker or agent. * * *

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. B. M. THOMAS, *Revenue Agent, San Francisco, Cal.*

INTERNAL REVENUE STAMPS.

(19608.)

Stamp duties.

Stamps issued under internal revenue laws now repealed can not be used in lieu of stamps required by the war-revenue law of 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 29, 1898.

SIR: Your letter of 25th instant is received, asking whether you can recognize and permit to be used old revenue stamps used (issued) under former internal revenue stamp acts.

In reply, you are advised that stamps issued under acts now repealed can not be used in lieu of stamps required by the war-revenue law of 1898. Ample opportunity was given for the redemption of the stamps issued under laws now repealed, and by section 17 of the act of March 1, 1879, a limitation was placed upon the presentation of claims for such redemption or allowance.

The stamps now required to be used are those which have been pre-

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scribed by the act, and they are required to be attached and canceled "as in this act provided."

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. R. YATES, *Collector Eighth District, Springfield, Ill.*

(19732.)

Stamps of old issue.

Stamps issued under former law will not protect articles taxable under Schedule B, act of June 13, 1898; such articles must be restamped.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 19, 1898.

GENTLEMEN: Your letter of July 7 has been received. You state that your company has many thousand commission accounts throughout the United States, where possession of your goods is kept in your hands until sold, and that quite a number of these retail druggists holding these stocks have on hand still unsold medicines stamped with an old revenue stamp used under a former law.

In reply, you are advised that the stamp formerly applied has no longer any validity, and retail dealers having on hand July 1, 1898, medicines so stamped under a former law will be required to stamp the same under the act of June 13, 1898, when sold at retail.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

J. C. AYER COMPANY, *Lowell, Mass.*

(19874.)

Imprinted revenue stamps.

Stamps imprinted on checks, drafts, or other instruments will not be redeemed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 10, 1898.

SIR: Replying to your letter of the 6th instant, asking if unused stamps which have been imprinted on checks, and which have been spoiled by local printer in making books, can be redeemed, you are advised that revenue stamps imprinted upon checks, drafts, or other instruments will not be redeemed by this office.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. C. JACKSON,
Vice-President First National Bank, Sistersville, W. Va.

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(19973.)

Stamp tax—Redemption and refunding.

There is no provision of law for the redemption of documentary stamps—Money paid for stamps used in error or in excess may be refunded.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 29, 1898.

SIR: Under date of August 23 you forwarded to this office a letter from Mr. W. S. Campbell, secretary of the Fidelity Mutual Life Insurance Association, relative to the redemption of certain documentary stamps. Mr. Campbell says:

This association sometimes issues policies in amounts ranging from $1,000 to $50,000 on the lives of individuals, which policies, for various reasons, are never delivered to or accepted by such individuals, but are returned to the association's office.

He asks whether the Government redeems the canceled stamps.

Please inform him that there is no provision of law for the *redemption* of documentary stamps. In cases where stamps have been used on instruments not requiring stamps, or where by error a stamp of a greater denomination than required by law has been used upon an instrument requiring a stamp, the amount paid for said stamps may be refunded upon application made therefor on Form 46, accompanied by the stamps, and, where practicable, by the instruments or copies thereof to which the stamps have been erroneously attached.

This ruling is not extended to any case where the instrument would have required the stamp had it been delivered to or accepted by the party for whom made.

The company can avoid a repetition of the trouble by instructing the agents to attach and cancel the stamps upon delivery and acceptance of the instruments.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. P. A. MCCLAIN, *Collector First District, Philadelphia, Pa.*

(20125.)

Tax stamps.

A stamp affixed to an instrument and canceled can not lawfully be removed therefrom and affixed to another instrument requiring a stamp—Amounts paid for stamps used in error, or in excess, or on instruments defaced or found to be defective and for which a substitute is prepared and stamped, may be refunded.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 3, 1898.

SIR: Under date of September 17, Mr. J. G. Pepper, of the Liverpool, London, and Globe Insurance Company, of New Orleans, La., addressed

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a letter to the Secretary of the Treasury relative to the removal of canceled documentary stamps from "spoiled" or "not taken" insurance policies and placing them upon other policies requiring stamps. Mr. Pepper incloses a newspaper clipping which advises such a course and he asks the opinion of the Department on the subject.

The letter has been referred to this office. Its receipt has been acknowledged, and Mr. Pepper has been referred to you.

This office holds that a stamp once affixed to an instrument, paper, or document requiring such stamp, and canceled, can not lawfully be removed therefrom and affixed to another instrument, paper, or document requiring a stamp. In cases where stamps have been affixed to instruments not requiring them, or where by error a stamp of a higher denomination than that required by law has been used upon an instrument requiring a stamp, the amount paid in error for said stamps may be refunded upon claims made therefor on Form 46 accompanied by the stamps, and, where practicable, by the instruments or copies thereof to which stamps have been erroneously attached.

This ruling as to refunding will also apply to cases where an instrument requiring a stamp is duly stamped and is accidentally injured or found to be defective and a substitute is prepared and duly stamped. It is not, however, extended to cases where the instrument (not defective) would have required the stamp had it been delivered or accepted.

Insurance companies should instruct their agents to attach and cancel the stamps upon delivery and acceptance of the policies, thus avoiding the loss in question. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. L. J. SOUER, *Collector Internal Revenue, New Orleans, La.*

(20199.)

Allowance for adhesive stamps.

Allowance may be made for certain kinds and denominations of such stamps purchased for resale.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 17, 1898.

SIR: Your letter of the 19th ultimo, stating that the First National Bank of your city, having ceased to act as agent for the sale of documentary and proprietary stamps, presents a claim for the redemption of all such stamps left on hand, and asking for further instructions relative to the redemption of the stamps thus returned, and others which may be returned by the banks and individuals that assumed, for the

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time being, the sale of said stamps as agents on behalf of the Government in the distribution of the same, has been received.

In reply, you are advised that no provision has been made for the redemption of adhesive stamps, but the case presented by the First National Bank is one readily distinguishable from a claim for the redemption of adhesive stamps from a purchaser who purchased the same for his own use. Banks or other corporations, or persons who procured adhesive stamps for resale to facilitate the distribution thereof on behalf of the Government, at the request of its duly constituted authorities, and at a time when other ample means of distribution for the accommodation of the Government and the convenience of the public could not be obtained, exercised for the time being *quasi* public duties, and should be protected from loss thereby as far as the same can be done consistent with law and sound public policy. It may be suggested, also, that such cases would present no difficulty in satisfactorily tracing the sale of stamps from their issue to their presentation for allowance, showing the discount, if any allowed, and eliminating one of the difficulties and dangers incident, generally, to the redemption of this class of stamps.

In view of the foregoing considerations, it has been determined by this office, without relaxing the rule heretofore made as to the redemption of adhesive stamps, to make allowance for certain adhesive stamps issued and sold to persons exclusively for resale, upon presentation of the stamps through the collector from whom the same were purchased, accompanied by a claim for allowance, with an affidavit of the facts of purchase for resale and that the purchaser has no use for said stamps.

This rule as to the allowance for stamps purchased for resale will not apply to stamps imprinted on checks, drafts, or other instruments, nor to any adhesive documentary stamps other than those of the denomination of 2 cents. Allowance, in any manner, for documentary stamps other than the 2-cent stamps is prohibited by statute; hence the only stamps for which allowance can be made under the conditions herein specified are the adhesive documentary stamps of the denomination of 2 cents and proprietary stamps other than private-die stamps.

Forms providing for the allowance for refund of money paid for certain stamps, purchased under the circumstances above indicated, will be prepared and furnished to collectors at an early date. Claims for allowance in such cases should not be forwarded to this office by collectors except when duly prepared and certified upon the proper forms.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. JOHN G. WARD, *Collector Fourteenth District, Albany, N. Y.*

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LEASES.

(*See also* DECISION 19932, p. 231.)

(19684.)

Stamp tax—Leases.

Receipts setting forth terms of a lease required to be stamped as a lease, unless there has been a separate lease made which has been duly stamped.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 12, 1898.

SIR: In reply to the letter addressed to you on the 2d instant by Mr. Collie E. Kinney, of Indianapolis, Ind., which you have referred to me, inquiring whether that provision of the act of June 13, 1898, Schedule A, imposing stamp tax "on lease, agreement, memorandum, or contract for the hire, use, or rent of any land, tenement, or portion thereof," applies to an instrument in the form of a receipt for money paid, which contains the words "in consideration of his having this day leased of me the house known as No. 250 North Illinois street, in the city of Indianapolis, Marion County, Ind., for the term of one month from this date," will you please inform him that it is held that this receipt, or any other receipt or instrument setting forth any terms of a lease, must be required to be stamped as a lease, unless there has been a separate lease made in the case which has been duly stamped, in which event the receipt, though containing the terms in question, does not require a stamp. A mere receipt, given under the terms of a lease duly stamped, does not require a stamp.

A receipt given on or after July 1, 1898, though it contains reference to the terms of a lease fully executed before July 1, 1898, does not require a stamp; but it is advisable in each of these cases that reference should be made in the receipt to the lease and to the date of its execution.

There will be no liberal ruling in favor of persons interested in these and other cases under the stamp-tax act. The construction must be broadly in favor of the revenue, to prevent evasion.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. C. W. FAIRBANKS, *United States Senate.*

(20069.)

Stamp tax—Leases.

Transfer of lease subject to taxation for the unexpired term.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 19, 1898.

SIR: This office is in receipt of a letter from Mr. Frank Drake, 15 Harrison street, Shelbyville, Ind., under date of September 9, 1898, in

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which he asks, Is it necessary to place revenue stamps on the transfer of a lease, and, if so, how much?

When a lease is transferred to a new lessee it is subject to taxation for the unexpired term of the lease and should be stamped accordingly.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. AMBROSE E. NOWLIN,
Collector Sixth District, Lawrenceburg, Ind.

(20318.)

Stamp tax—Leases of rights of way.

Leases of rights of way of land are subject to taxation under act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 11, 1898.

SIR: This office is in receipt of a letter under date of October 18, 1898, from Mr. O. H. Waddle, Somerset, Ky., in which this gentleman asks if leases of rights of way of land are subject to taxation. You will inform him that they are.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JOHN W. YERKES, *Collector Internal Revenue, Danville, Ky.*

LEGACIES AND DISTRIBUTIVE SHARES.

(19561.)

Legacy tax.

The law does not apply to cases where the grantor died before June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 23, 1898.

SIR: Your letter of the 20th instant, in regard to the tax on legacies and distributive shares of personal property under the provisions of the act of June 13, 1898, has been received.

A tax on legacies or distributive shares arising from personal property where the whole amount of such personal property shall exceed the sum of $10,000, passing after the passage of said act, is imposed as follows:

On sums between $10,000 and $25,000—

First, on benefits to the lineal issue or lineal ancestor, brother, or sister of the deceased at the rate of 75 cents for every $100.

Second, to the descendant of a brother or sister at the rate of $1.50 for every $100.

Third, to the brother or sister of the father or mother, or a descendant of a brother or sister of the father or mother, at the rate of $3 for every $100.

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Fourth, to the brother or sister of the grandfather or grandmother, or a descendant of the brother or sister of the grandfather or grandmother, $4 for every $100.

Fifth, to those of any other degree of collateral consanguinity, or strangers in blood, or a body politic or corporate, at the rate of $5 for every $100.

All legacies or property passing by will, or by the laws of any State or Territory, to husband or wife, are exempted from tax or duty.

On sums ranging between $25,000 and $100,000 the rates of tax are to be multiplied by one and one-half; on those ranging from $100,000 to $500,000 the rates are to be multiplied by two; on those ranging from $500,000 to $1,000,000 the rates are to be multiplied by two and one-half, and on those above $1,000,000 the rates are to be multiplied by three.

This tax is made a lien upon the property of the deceased for twenty years, or until the same shall within that period be paid. It is required that the tax shall be satisfied before the legatee is paid.

Every executor, administrator, or trustee, before payment to the legatees or parties entitled to beneficial interest, shall pay to the collector or deputy collector of the district of which the deceased was a resident the amount of the duty or tax upon such legacy or distributive share. He will render to the collector or deputy collector a statement in detail of the amount of such legacy or distributive share, together with the amount of duty which has accrued, or shall accrue, verified by his oath or affirmation on Form No. 419.

The words "passing after the passage of this act" mean where the grantor dies after the passage of the act. That is the time when the will or intestate laws of the State or Territory take effect.

The law does not apply to estates now in process of settlement, where the grantor died before the 13th of June, 1898.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. B. WHITE,
Collector Internal Revenue, Parkersburg, W. Va.

(20061.)

Legacy tax.

As to Form 419 for making return—The value of an estate to be taken from the inventory and appraisement—If the personal property exceeds $10,000 in value the tax accrues.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 15, 1898.

SIR: Yours of the 9th instant is received, inclosing letter to you from Mr. William M. Fausset, Pottsville, Pa., in which he refers to the fact that in the Form 419 for making return of legacies and distributive shares there is a column for "amount exempt." He asks what personal property is exempt from taxation.

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In reply, you are advised that the form in question was in use under the old law, and was hastily reprinted for use under the present law. The column "Amount exempt" might, however, be used in case of a legacy or distributive share to a surviving wife or husband.

The column in the form headed "Age of legatee at testator's death" is useless under the present law. The form will be revised, and this column will be eliminated in the next edition.

Mr. Fausset also asks if tax is to be computed on the whole amount of the estate or on the amount of each share. He instances the case of a person leaving by will a personal estate worth $60,000 to his four children. He asks if the gross amount is to be divided by four and the tax computed at the rate of 75 cents on every $100, or whether the value of the estate in its entirety is to be taken and the tax computed at the rate of $1.12½ on the $100.

In answer, I have to say that the rate of tax is to be determined by the value of the whole amount of the personal property passing to an executor or to beneficiaries direct. In the case specified, where the amount exceeded $25,000 and did not exceed $100,000, the rate of tax under each share would be $1.12½ on each $100 of clear value.

In reply to the last question asked by Mr. Fausset, you are advised that, as the inventory and appraisement of an estate must be made under oath and filed in the office of the register or other probate officer, I can see no reason why the collector may not properly accept as correct the taxable values given by the appraisers. The acceptance of such values would not prevent a reopening of the case should there be discovery of fraudulent undervaluation.

In conclusion, you state that you are "unable to determine whether it is the intention of the act to in all cases exempt the sum of $10,000, making the tax really on the excess of such amount."

In answer, I have to say that the sum of $10,000 is exempt from taxation only in cases where the whole value of the personalty does not exceed $10,000. If the personal property exceeds $10,000 in value the tax accrues, though the aggregate amount of the separate shares distributed may fall considerably below $10,000, owing to the deduction of expenses of distribution.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. P. A. MCCLAIN, *Collector First District, Philadelphia, Pa.*

(20089.)

Legacy tax.

Section 29 of the act of June 13, 1898, construed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 21, 1898.

SIR: Your letter of the 8th instant is received, asking for a construction of the following portion of section 29 of the war-revenue act:

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Where the whole amount of said personal property shall exceed in value ten thousand and shall not exceed in value the sum of twenty-five thousand dollars the tax shall be, etc.

You ask whether this means the whole amount of the personal property of which the testate or intestate died seized or the amount or amounts received by the legatee or legatees.

In reply, you are advised that this office construes section 29 as follows:

Where the value of the whole amount of personal property left by a decedent does not exceed $10,000, no tax is imposed. Where such whole value exceeds $10,000 and does not exceed $25,000, the tax is imposed, and the rate of tax upon the clear value of each share is determined by the degree of relationship of the beneficiary. Where the value of the whole amount of the personal property left by a decedent exceeds $25,000, the rate of tax upon the clear value of each share is determined by the degree of consanguinity and by the value of the whole amount, as provided in the last paragraph of section 29 of the war-revenue act.

You ask whether the tax upon legacies should come out of the corpus of the estate or out of each share.

Each share should bear its own tax, unless, in case of devise by will, it was otherwise specified in the will.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. J. C. BOEVERS, *State's Attorney, Galena, Ill.*

(20188.)

Legacy tax.

The fact that distributive shares arising from personal property of an estate are represented by United States bonds does not relieve the shares from legacy tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 12, 1898.

SIR: In reply to your inquiry of 5th instant, whether or not Government bonds are subject to legacy tax, you are advised that where certain distributive shares arising from the personal property of an estate are represented by bonds of the United States it does not constitute ground for holding such shares to be exempt from tax on legacies and distributive shares under the internal-revenue laws. (24 Int. Rev. Rec., 33.)

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHARLES WRIGHT, *Collector First District, Detroit, Mich.*

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(20237.)

Legacy tax.

A legacy tax is to be collected on the fractional parts of $100.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 24, 1898.

SIR: In reply to your letter of the 15th instant, you are advised that this office holds that, in the matter of tax on legacies, the tax is to be collected on the fractional parts of $100. * * *

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. JAS. D. GILL, *Collector Third District, Boston, Mass.*

(20368.)

Legacy tax.

How taxes are computed on life interests—Tax on a leasehold for twenty years—Tax on a legacy to Harvard University depending on a contingency.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 21, 1898.

SIR: This office is in receipt of your letter of the 5th ultimo, inclosing a communication from Mr. B. K. Miller, jr., of your city, asking a series of questions relative to the legacy tax. I will quote the hypothetical cases, and then reply to same in each case.

A.

Smith dies leaving personal estate amounting to $150,000. He leaves the total net income for ten years to A. S. (his son). At the end of twenty years the corpus of the estate is to be delivered to B. S. (his other son).

(1) The annual payments to A. S. must be reported to the collector, who will determine the amount of tax to be paid thereon by approved tables for determining the present value of the net income of said estate (see page 196). The tax must be paid on a gross sum, not annually.

(2) The tax on the interest of B. S. is not payable until the termination of the life estate.

(3) Any tax paid on the annual payments to A. S. will not reduce the amount of tax to be paid by B. S. The law provides that "every executor, administrator, or trustee, * * * before payment and

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distribution to the legatees, * * * shall pay to the collector * * * the amount of the duty or tax assessed upon such legacy or distributive share."

B

Jones dies leaving real estate amounting to $200,000 and personal estate amounting to $150,000. His will provides that one-half of the net income from both kinds of property shall be paid to his widow and one half to his son. After twenty years the whole estate goes to a daughter. Suppose the real estate and personal property consists of a building with machinery, all leased as a whole for twenty years at a fixed yearly rental, and that the value of the component parts is fixed in good faith by the official appraiser of the probate court at the amount stated above. If the net income be $25,000 and if the income is to be taxed, how should the income upon which the tax is to be paid be cal culated?

(1) The widow's interest is exempt from tax.

(2) The one-half of the net income, which is given to the son, must be reported to the collector, and tax paid according to the value of said interest; the value is to be determined by approved tables, which have been referred to in the fore part of this letter.

(3) As to the daughter's interest, the legacy tax accrued on the death of the testator, but it is not payable until the legacy is payable, and the legacy can not be paid until the tax is paid.

In regard to the question raised where the real estate and the personal property consist of a building with machinery, all leased as a whole for twenty years at a fixed yearly rental, yielding a net income of $25,000, tax must be paid on the appraised value of said twenty years' leasehold (which brings in a net income of $25,000).

As the widow's share is exempt, as stated, the entire tax (on son's one-half) must be paid before the first legacy (i. e., $12,500 net annual income) is paid to the son.

C.

In regard to the supposed difficulty in determining the amount of tax in a case where one "Robinson bequeaths personal property to a 10 year-old son, provided he attain the age of 21 years; if he does not attain that age, then to Harvard University," the question is answered by the fact that the law only requires the executor, etc., to pay legacy tax before distribution of legacies to legatees on the clear value thereof. In the case above stated the Harvard University legacy would only be subject to tax as above in case said son does not attain the age of 21 years. Any income from the estate going to the son before he reaches the age as stated would be taxable according to the present worth of the interest bequeathed.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. HENRY FINK, *Collector, Milwaukee, Wis.*

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(20388.)

Legacy tax.

The "whole amount" of the personal property and not the separate legacies determine the rate of tax to be paid—Legacy tax on a legacy to a legally adopted child.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 30, 1898.

SIR: This office is in receipt of a letter from Frank L. Fales, executor, 1 Willow street, of your city, under date of September 26, * * * stating that an estate, amounting to $65,000, is so divided by will that no one legacy amounts to $10,000, and asking for instructions regarding legacy tax to be paid thereon, also as to tax required on a legacy to a legally adopted child.

In reply, you will please inform him that legacy tax must be paid, under section 29 of the war-revenue act, on said estate, as on an estate exceeding $25,000 and not exceeding $100,000. The "whole amount" of the personal property—that is, $65,000, and not the separate legacies, which, you say, are less than $10,000—determines the rate of tax to be paid. Legacy tax, however, is not payable until the legacy is payable, and the legacy must not be paid until the tax shall have been paid (see section 30 of the act.)

Regarding the legacy tax on a legacy to a legally adopted child, you will advise him that if the laws of the State in which the deceased died provide that the adopted child takes the same as the issue of a deceased person, then the tax on a legacy to such an adopted child would be at the rate of 75 cents multiplied by 1½ for each $100 of clear value of such interest, the estate being one exceeding $25,000 and not exceeding $100,000. If the State laws regard the adopted child as a stranger in blood to the person who died, then the tax would be at the rate of $5, multiplied by 1½ for each and every hundred dollars of clear value of such interest.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES D. GILL, *Collector, Boston, Mass.*

(20392.)

Legacy tax.

Internal-revenue laws do not exempt heirlooms from legacy tax—A legacy conditioned on legatee marrying is subject to tax, but the tax is not payable until the legacy is payable—Payment of legacy tax before distribution is imperative.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 3, 1898.

SIR: This office is in receipt of a letter from Mr. Alexander Muncaster, Washington, D. C., under date of 7th ultimo, * * * in

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regard to the tax on legacies left by Henry A. Clark, widower, who died June 29, 1898. I reply to his inquiries as follows, and you will so advise him:

(1) The oil paintings left to a son, James H. Clark, should be appraised, and said bequest is liable to legacy tax of 75 cents multiplied by 1½ on each $100 of value thereof, as the estate exceeds $25,000 in value and does not exceed $100,000.

(2) The two watches should also be appraised and legacy tax paid at same rate. The internal-revenue laws do not exempt "heirlooms" from legacy tax.

(3) The household furniture I note is appraised at $511.75, and tax should be paid thereon at the same rate.

(4) The "net revenue," which is bequeathed to the two daughters under certain conditions, is subject to legacy tax; the present value of said income is to be determined by approved tables (see page 196).

(5) The legacies of $5,000 each to the two daughters on condition—i. e., that of their marrying—is subject to tax of 75 cents multiplied by 1½ on each $100, but not payable until their legacy is payable.

(6) The legacies to the four children are conditioned on the marrying of the two daughters. The value of said legacies can not now be determined, but is nevertheless subject to tax, which is to be determined on the marriage of the two daughters.

Payment of legacy tax before distribution is imperative in all cases, except legacies passing to husband or wife.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. F. PARLETT, *Collector Internal Revenue, Baltimore, Md.*

(20421.)

Legacy tax.

The value of an income payable to a person for life is to be determined by approved tables—Legacy tax is required to be paid thereon—Legacies to charitable institutions are not exempt from tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 13, 1898.

SIR: This office is in receipt of a letter from W. & N. E. Kernan, Utica, N. Y., under date of the 3d instant, * * * relative to tax upon legacies and distributive shares under sections 29 and 30 of the war-revenue act.

In reply, you will please inform them that, in a case where $12,000 is left to a certain person, the income to be paid to that person for life, the value of such income is liable to legacy tax, and said value is to be determined by approved tables (see p. 196).

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Upon the death of the above beneficiary, the will provides that the principal of said $12,000 is to be divided between three charitable institutions. Legacy tax accrued on these legacies on the death of the testator, but is not payable until the legacy is payable, and the legacy must not be paid until the tax shall have been paid. Charitable institutions are not exempt from legacy tax, so far as the internal revenue laws are concerned.

Where sisters-in-law or brothers-in-law (if strangers in blood) are left legacies, said legacies are subject to tax under paragraph 5 of section 29 of the war-revenue act.

Further, you may inform them that they can secure legacy return form 419, revised, at your office upon application.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. C. C. COLE, *Collector, Syracuse, N. Y.*

(20437.)

Legacy tax.

Legacy taxes accrue on an estate where a testator died on or after June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 15, 1898.

SIR: This office is in receipt of a letter from Mr. M. B. Stuart, Lincoln, Nebr., under date of the 1st instant, * * * stating that his mother died in Connecticut on the 18th of last June; that the will was offered for probate in September, and asking whether or not said estate is subject to legacy tax.

In reply, you will please inform him that, where the whole amount of personal property exceeds $10,000 in actual value, passing from any person dying on or after June 13, 1898, taxes accrued thereon, and should be paid before distribution to the legatee, under section 29 of the war-revenue act.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. J. E. HOUTZ, *Collector, Omaha, Nebr.*

(20438.)

Legacy tax.

Where testator dies, leaving an estate of $120,000, to be equally divided between his six children—*i. e.*, $20,000 to each—each of said legacies is to be taxed at the rate of $1.50 per $100.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 15, 1898.

SIR: In reply to a letter addressed to this office on the 9th instant by W. & N. E. Kernan, of Utica, N. Y., * * * relative to legacy tax,

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you will please inform them that, if a man should die, leaving a taxable estate of $120,000, to be equally divided between his six children, $20,000 to each, each of said legacies is to be taxed at the rate of $1.50 per $100. The legacy tax, however, is not payable until the legacy is payable, and the legacy must not be paid until the tax shall have been paid.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHARLES C. COLE, *Collector, Syracuse, N. Y.*

(20442.)

Legacy tax.

Legacy tax accrues on an estate when testator died on or after June 13, 1898—Legacies in the nature of a life beneficiary interest and remaindermen's interest are both taxable.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 16, 1898.

SIR: Your letter of the 12th instant, inclosing a letter from B. B. Blydenburgh, attorney for the estate of Franklin E. Taylor, deceased, has been received, stating that said testator died June 30, 1898, and asking a series of questions relative to said estate's liability to tax under the war-revenue act.

I reply as follows:

(1) This estate is subject to tax under the war-revenue act, the testator having died on or after June 13, 1898.

* * * * * * *

(3) Legacies in the nature of a life beneficiary interest and remaindermen's interest are both taxable. The values of said interests are to be determined by approved tables (see page 196).

Legacy taxes are not payable until the legacy is payable, and the legacy must not be paid until the tax shall have been paid.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. E. MOORE, *Collector, Brooklyn, N. Y.*

(20443.)

Instructions concerning tax on legacies and distributive shares.

(Series 7, No. 3—Revised, Supplement No. 1.)

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 16, 1898.

The appended tables, showing the present worth of an annuity, life interest, and of a reversionary interest, with explanatory notes and

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examples, are hereby published and promulgated for the use of internal-revenue officers and administrators, executors, or trustees in determining the duty or tax to be paid to the United States upon legacies or distributive shares arising from personal property, imposed by the act of June 13, 1898, entitled "An act to provide ways and means to meet war expenditures, and for other purposes."

N. B. SCOTT, *Commissioner.*

Approved:

O. L. SPAULDING, *Acting Secretary of the Treasury.*

LEGACY TAXES.—*Table, single life, 4 per cent, showing the present worth of an annuity or life interest, and of a reversionary interest, with explanatory notes and examples.*

[United States internal-revenue adjustment, 1898.]

Age.	Mean redemption period.	Annuity, or present value of one dollar due at the end of each year during the life of a person of specified age.	Reversion, or present value of one dollar due at the end of the year of death of a person of specified age.
10	38.891	$19.45359	$0.21332
11	38.507	19.36943	.21656
12	38.113	19.28184	.21998
13	37.710	19.19065	.22344
14	37.298	19.09590	.22708
15	36.877	18.99764	.23086
16	36.447	18.89569	.23478
17	36.010	18.79010	.23884
18	35.565	18.68070	.24305
19	35.113	18.56751	.24740
20	34.652	18.45038	.25191
21	34.186	18.32932	.25656
22	33.711	18.20416	.26138
23	33.230	18.07471	.26636
24	32.742	17.94097	.27150
25	32.248	17.80274	.27682
26	31.747	17.65984	.28231
27	31.239	17.51224	.28799
28	30.725	17.35968	.29386
29	30.205	17.20225	.29991
30	29.678	17.03961	.30617
31	29.147	16.87176	.31262
32	28.606	16.69846	.31929
33	28.067	16.51964	.32617
34	27.516	16.33503	.33327
35	26.961	16.14437	.34060
36	26.401	15.94755	.34817
37	25.834	15.74427	.35599
38	25.263	15.53421	.36407
39	24.685	15.31722	.37241
40	24.101	15.09295	.38104
41	23.511	14.86102	.38996
42	22.915	14.62122	.39918
43	22.313	14.37356	.40871
44	21.706	14.11809	.41852
45	21.103	13.85713	.42857
46	20.499	13.58958	.43886
47	19.896	13.31698	.44935
48	19.296	13.03943	.46002
49	18.703	12.75716	.47088
50	18.113	12.47032	.48191
51	17.527	12.17919	.49311
52	16.947	11.88406	.50446
53	16.372	11.58531	.51595
54	15.804	11.28325	.52757
55	15.243	10.97789	.53931
56	14.689	10.66963	.55116
57	14.143	10.35881	.56310
58	13.603	10.04630	.57514
59	13.072	9.73131	.58726

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LEGACY TABLES.—*Table, single life, 4 per cent, etc.*—Continued.

Age.	Mean redemption period.	Annuity, or present value of one dollar due at the end of each year during the life of a person of specified age.	Reversion, or present value of one dollar due at the end of the year of death of a person of specified age.
60	12.549	$9.41474	$0.59943
61	12.029	9.09765	.61169
62	11.532	8.78053	.62382
63	11.059	8.46412	.63600
64	10.557	8.14888	.64812
65	10.068	7.83562	.66017
66	9.630	7.52476	.67213
67	9.185	7.21699	.68398
68	8.753	6.91298	.69565
69	8.333	6.61301	.70719
70	7.926	6.31716	.71857
71	7.532	6.02612	.72976
72	7.151	5.74008	.74077
73	6.782	5.45928	.75157
74	6.425	5.18402	.76215
75	6.081	4.91463	.77251
76	5.749	4.65125	.78264
77	5.428	4.39383	.79254
78	5.119	4.14286	.80220
79	4.823	3.89858	.81159
80	4.537	3.66071	.82074
81	4.262	3.42900	.82965
82	3.995	3.20258	.83836
83	3.737	2.98024	.84691
84	3.484	2.76106	.85534
85	3.236	2.54366	.86371
86	2.992	2.32795	.87209
87	2.752	2.11384	.88054
88	2.517	1.90115	.88913
89	2.286	1.69107	.89650
90	2.062	1.48540	.90441
91	1.845	1.28432	.91214
92	1.637	1.09024	.91961
93	1.442	.90647	.92667
94	1.263	.73687	.93320
95	1.103	.58435	.93906
96	.975	.46182	.94378
97	.877	.36698	.94742
98	.746	.24088	.95229
99	.500	.00000	.96154

Example 1.—A person dying bequeaths to his nephew, aged 40 years, an annuity of one thousand dollars during life. What is the present value of the annuity?

Reference to the foregoing table shows that the present value of one dollar a year, payable at the end of each year during the life of a person aged 40 years, is fifteen dollars nine cents two mills and ninety-five one-hundredths of a mill ($15.09295); therefore the present value of one thousand dollars is one thousand times as much, or fifteen thousand and ninety-two dollars and ninety-five cents, the amount upon which tax accrues.

Example 2.—A person dying bequeaths to his daughter, aged 35 years, a life interest in personal property amounting to fifty thousand dollars ($50,000), the estate to revert absolutely at her death to other parties. Required the present value, at the date of death of the testator, of the life interest of the daughter in the estate; also, required at the same date, the present value of the reversionary interest of said other parties in the estate.

At a net interest of 4 per cent per annum, the assumed rate, the estate of $50,000 will realize an income or annuity of $2,000 per annum. The present value of the sum of $1, payable at the end of each year

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during the life of a person aged 35 years, is found by the table to be $16.14437, and the present value of an annuity of $2,000 for the same time would be two thousand times as much, or $32,288.74, the amount upon which tax accrues.

The reversion or present value of $1, due at the end of the year of death of a person aged 35 years, is found by the table to be $0.34060, and such value of $50,000 would be fifty thousand times as much, or $17,030, the amount upon which tax accrues.

NOTE.—This table is based on the "Actuaries' or Combined Experience Table," money being worth 4 per cent per annum.

The first column shows the age of the person under consideration.

The second column shows the corresponding "mean redemption period," and represents the time in years in which the present values of annuities and reversions certain will become equal respectively to the present value of annuities and reversions contingent on the duration of life.

The "mean redemption period" is a mean between the last payment of the annuity and the payment of the reversion, averaging six months later than the former payment and six months earlier than the latter payment.

The third column shows the present value of an annuity for life of one dollar per annum, the last payment being made at the end of the year prior to the one in which death occurs.

The fourth column shows the present worth of one dollar payable at the end of the year in which death occurs.

NOTE.—This adjustment has been prepared under the direction of Mr. J. S. McCoy, Government actuary.

Present value of annuities and reversions certain upon a 4 per cent basis.

Number of years.	Present worth of an annuity of one dollar, payable at the end of each year, for a certain number of years.	Present worth of one dollar, payable at the end of a certain number of years.	Number of years.	Present worth of an annuity of one dollar, payable at the end of each year for a certain number of years.	Present worth of one dollar, payable at the end of a certain number of years.
	Annuity.	*Reversion.*		*Annuity.*	*Reversion.*
1	$0.96154	$0.961538	16	$11.65229	$0.533908
2	1.88609	.924556	17	12.16567	.513373
3	2.77509	.888996	18	12.65929	.493628
4	3.62989	.854804	19	13.13394	.474642
5	4.45182	.821927	20	13.59032	.456387
6	5.24214	.790314	21	14.02916	.438834
7	6.00205	.759918	22	14.45111	.421955
8	6.73274	.730690	23	14.85684	.405726
9	7.43533	.702587	24	15.24696	.390121
10	8.11089	.675564	25	15.62208	.375117
11	8.76047	.649581	26	15.98277	.360689
12	9.38507	.624597	27	16.32958	.346816
13	9.98565	.600574	28	16.66306	.333477
14	10.56312	.577475	29	16.98371	.320651
15	11.11839	.555265	30	17.29203	.308319

Example.—A man dies leaving personal property to the amount of $50,000, his daughter to have the income from it for twenty years, it then to revert to his youngest son. What is the present worth of these legacies?

The income from $50,000 would be $2,000 per annum, assuming money at 4 per cent.

The present worth of an annuity of $2,000 for twenty years will be

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2,000 times an annuity of $1 for twenty years. In the table, opposite 20, we find the value of an annuity of $1 to be $13.59032; therefore the present worth of an annuity of $2,000 will be $27,180.64.

A reversion of $1 at the end of twenty years is shown by the table to be $0.456387, and a reversion of $50,000 will be 50,000 times as much, or $22,819.35.

(20444.)

Legacy tax.

Where property is held by trustees under a deed of trust executed prior to June 13, 1898, by a person dying on or after said date, and by the terms of the trust the beneficiaries could not become entitled to the possession or enjoyment of their distributive shares until after the grantor's death, taxes are required to be paid on these distributive shares under section 29, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 16, 1898.

SIR: This office is in receipt of your letter of the 9th instant, inclosing a statement of a case in which the taxes have been paid under "right of refund," together with a copy of a deed of trust. You say:

Mr. Storrs, who represents executor and legatees in this case, claims that, as this inheritance was made over by trustor to trustees irrevocably before the revenue law went into effect, it does not come within the provisions of the war-revenue law, and therefore is not taxable.

You ask for a decision in this case.

In reply, you are advised that the distributive shares of the property, which was in the possession of, and held by, the said trustees under said deed of trust prior to June 13, 1898, but which the distributees did not become entitled to possession or enjoyment of until after that date, are subject to the payment of tax under section 29 of the act of June 13, 1898. The fourth paragraph reads as follows:

Fourth. Divide among and pay over all the rest, remainder, and remainders of the moneys that may be realized out of the sale of my property into three equal parts, as follows, namely: Pay over one-third of the amount to E. C. B. and to M. B. M., share and share alike; and in case of the death of either, the share she would have received if living shall be paid to their children or their survivor or survivors, share and share alike. Pay over one-third of the amount to J. H. S. and E. H., share and share alike; but should J. H. S. die before the completion of this trust, the share she would have received if living shall be paid over to her surviving issue, share and share alike, but should she be deceased before the completion of this trust, leaving no lawful issue, then the share she would have received if living shall be paid over to E. H. But should E. H. die before the completion of this trust, leaving lawful issue, then the share she would have received if living shall be paid to such issue, but without leaving lawful issue, then her share shall be paid over to her sister, J. H. S., share and share alike. Pay over one-third of the amount to W. E. T., N. L. T., L. B. T., and E. T.

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B., share and share alike. If either or any of them should die, leaving lawful issue, the share that the parent would have received if living shall be paid over to such issue; but in case of failure of such issue, such share shall be equally divided among and paid over to the surviving children of my brother, N. T., share and share alike.

By the terms of this deed of trust the grantor provided that the rest and remainder of her property, after the payments provided for in the first, second, and third paragraphs of the deed, should be paid over to the persons mentioned in the fourth paragraph or to their children; and it is clear from the terms of the deed that the provisions of the fourth paragraph could not take effect until after her death, which, as Mr. Storrs states, did not occur until July 22, 1898, when the law imposing tax on legacies and distributive shares on personal property was in force.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHARLES H. TREAT, *Collector Second District, New York, N. Y.*

(20445.)

Legacy tax.

Beneficial interests held in trust by trustees are subject to tax, even though their taxable value can not be determined in all cases until a certain contingency arises, such as the termination of a life interest.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 20, 1898.

SIR: This office is in receipt of a letter from Evarts, Choate & Beaman, attorneys, 52 Wall street, of your city, under date of the 3d instant, * * * asking questions relative to legacy tax under the act of June 13, 1898.

In reply you will please inform them as follows:

(1) If two brothers should die, one leaving a $25,000 estate and the other a $500,000 estate, and each by will giving to a third brother $10,000, the legatee would be required to pay twice as much on one legacy as on the other; for instance, one estate is taxed at the rate of an estate the value of which does not exceed $25,000, and the other at the rate of an estate which does not exceed $500,000. (See sec. 29 of the act of June 13, 1898.)

(2) Where a testator leaves a specific sum to trustees to hold in trust for the benefit of a grandson during his life, and to pay him the net income of such fund, the present worth of the life interest will be determined by approved tables, and tax must be paid thereon. Said tables have been prepared by the Government Actuary, and appear as decision 20443 (p. 195).

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The tax on the principal, which on the death of said grandson goes to the issue of the grandson that shall survive him, in equal shares *per stirpes*, can not now be determined, as the testator directs that the principal of the fund shall form part of the testator's residuary estate. If said grandson should die, leaving no issue surviving him, it would then go to the two nephews and two nieces of the testator, who take the residuary estate.

These beneficial interests are subject to tax, even though their taxable value can not be determined in all cases until a certain contingency arises; that is, termination of the life interest. Legacy tax, however, is not payable until the legacy is payable, and the legacy must not be paid until the tax shall have been paid.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

(20446.)

Legacy tax—Returns.

It is imperative that the return be made on the "whole amount" of personal property passing from a person dying on or after June 13, 1898; the fact that the legacy left to the widow is exempt from tax does not relieve the administrator or executor from making such return

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 20, 1898.

SIR: Your letter of the 8th instant, in reply to office letter of the 2d ultimo, relative to making legacy return on the estate of John A. Welburn, deceased, and inclosing letter from R. N. Nelson, Newport, Ky., attorney for said estate, dated December 1, and copy of the will of said deceased, is received.

You will please inform him that it is imperative that the return be made on the "whole amount" of personal property passing from a person dying on or after June 13, 1898. (See Regulations, series 7, No. 3, revised, pp. 4 and 5, for penalty for failure or neglect to deliver to collector statement, etc.)

The fact that the legacy left to the widow is exempt from tax does not relieve the administrator or executor from making return to collector, etc., of the whole amount of personal property passing under the will.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. D. N. COMINGORE, *Collector Sixth District, Covington, Ky.*

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(20461.)

Legacy tax.

The tax on legacies should be deducted from the individual legacies, but is a lien upon the entire property of the decedent.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 23, 1898.

SIR: This office is in receipt of a letter from Smith & Weatherly, attorneys in your city, under date of October 24, * * * asking certain questions relative to legacy tax. In reply, you will please inform them as follows:

The whole amount of personal property * * * determines the rate of taxation. The tax on legacies should be deducted from the individual legacies, but is a lien upon the entire property of the decedent. The only legacies or distributive shares exempt are those passing to the widow or husband.

If an estate valued at $188,000 had $100,000 debts charged against it, thus reducing the amount subject to distribution to less than $100,000, the tax on the legacies must be paid as of an estate exceeding $100,000 in value and not exceeding $500,000.

Legacy tax is not payable until the legacy is payable, and the legacy must not be paid until the tax shall have been paid.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. J. H. BINGHAM, *Collector Internal Revenue, Birmingham, Ala.*

(20545.)

Legacy tax.

Opinion of the Attorney-General construing section 29 of the act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., January 12, 1899.

The appended opinion of the honorable Attorney-General is hereby promulgated for the information and guidance of all officers of the Internal-Revenue Service. Any rulings of this office conflicting with this opinion are hereby modified to conform thereto.

G. W. WILSON, *Acting Commissioner.*

DEPARTMENT OF JUSTICE,
Washington, D. C., January 5, 1899.

The SECRETARY OF THE TREASURY.

SIR: I have the honor to acknowledge receipt of yours of the 7th of November, 1898, inclosing a copy of a letter addressed to you by the Commissioner of Internal Revenue, in which he desires to be advised

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as to the construction of section 29 of the act of June 13, 1898, and you ask my opinion upon the same.

From the letter of the commissioner I copy the following:

"Under the provisions of section 29 of the act of June 13, 1898, taxes are required to be paid on legacies or distributive shares arising from personal property only 'where the whole amount of such personal property, as aforesaid, shall exceed the sum of ten thousand dollars in actual value passing after the passage of this act, from any person possessed of such property, either by will or by the intestate laws of any State or Territory.' Does this reference to a sum exceeding $10,000 in actual value mean the value of the entire personal property left by a person at his death, or does it mean the actual value of his property remaining for distribution to his legatees and distributees after the payment of all debts standing against the estate?

"This question is now before this office in the following case submitted at the instance of an executor of a will: A. died, leaving a personal estate of $12,000 and debts amounting to about $2,500, leaving only about $9,500 to be paid to his heirs and legatees. Will the executor have to pay any revenue tax under the act of June 13, 1898?"

The question presented by the commissioner is, in substance, as to whether the tax provided for in section 29 is to be levied upon the gross amount of a deceased person's estate, which shall have come into the hands of the administrator or executor, or upon such portion of the estate as constitutes legacies or remains to be paid out to distributees.

So much of section 29 as it is necessary to quote in passing upon this question is as follows:

"That any person or persons having in charge or trust, as administrators, executors, or trustees, any legacies or distributive shares arising from personal property, where the whole amount of such personal property as aforesaid shall exceed the sum of ten thousand dollars in actual value, passing, after the passage of this Act, from any person possessed of such property, either by will or by the intestate laws of any State or Territory, or any personal property or interest therein, transferred by deed, grant, bargain, sale, or gift, made or intended to take effect in possession or enjoyment after the death of the grantor or bargainer, to any person or persons, or to any body or bodies, politic or corporate, in trust or otherwise, shall be, and hereby are, made subject to a duty or tax, to be paid to the United States," etc.

The language of the act appears to me to be plain, so much so that it does not admit of a doubt. It refers not to the estates of deceased persons which may come to the hands of administrators or executors, but to legacies or distributive shares arising from personal property in charge of administrators, executors, or trustees. The law does not say that the estates of testators or intestates shall pay a tax, but that legacies or distributive shares arising from personal property, where the whole amount of such personal property as aforesaid shall exceed the sum of $10,000 in actual value, are taxable. The term "as aforesaid," used in the portion of the law above quoted, can not refer to the estate from which a legacy or distributive share is derived, but it refers to the personal property constituting the legacy or distributive share.

I am confirmed in this construction of this act by the further provision of the section in regard to the amount of tax to be paid, for in each clause designating such tax the words used are "where the person or persons entitled to any beneficial interest in such property shall be," etc. It is the interest to which the beneficiary is entitled which

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the law intended to make the subject of taxation. For instance, by way of illustration, if a testator, with an estate worth $50,000, makes a bequest of $25,000 to a person, and the residue of the estate is consumed in the payment of debts, the whole estate goes into the hands of the executor, and yet only the legacy of $25,000 would be taxable under the provisions of this act. I can illustrate further by taking a specific legacy of jewelry or plate. This is taxable or not, according to its actual value. If such legacy is worth exceeding $10,000, then it is liable to the tax; if not, it is not taxable.

The same principle applies as to the estates of intestates, no matter what the gross amount which comes to the hands of the administrator may be. It is the amount which remains for distribution, after the payment of debts, which the law intends to tax. An illustration: Suppose an estate which comes to an administrator consists of $100,000 in money, or other personal property, and the intestate owes upward of $100,000. The entire estate will be consumed in the payment of debts. In such case the provisions of section 29 do not apply, because there is nothing for distribution; there can be no distributive shares. To levy a tax upon the $100,000 in such case would not be taxing a legacy or distributive share arising from personal property, but it would really be levying a tax upon the property of a deceased person, which ought to go to pay his debts. It would be indirectly a tax upon the creditors of a deceased person and not upon a legatee or distributee. However, on the other hand, if the estate which comes to the hands of the administrator is of the value of $100,000, and $50,000 will pay debts and costs of administration, leaving $50,000 for distribution to those entitled, such distributive shares of this $50,000 (as the whole amount exceeds $10,000) would be subject to the tax under the provisions of the act. It is the net amount which remains in the hands of the administrator for distribution to the next of kin or those entitled which constitutes distributive shares in the estate of a decedent.

The word "passing," which is used in the act, is also explanatory of its meaning. It too refers to legacies or distributive shares "passing" after the passage of the act. A legacy passes from the testator to the legatee. A distributive share passes from the intestate to the distributee. An executor or administrator is the mere agency or instrumentality to carry out the purposes declared in a will, or to administer an estate of a deceased person according to the requirements of the law. A legacy or distributive share, in contemplation of law, does not pass to these agencies; it simply passes through them to such person as is entitled to the legacy or distributive share.

I hold, therefore, that it is the purpose of the law under consideration, not to levy a tax upon the gross amount of estates in the hands of executors, administrators, etc., but to tax such legacies and distributive shares arising from personal property as exceed $10,000 in actual value. The tax is upon the legacy or distributive share, not upon the estate.

Respectfully, JAS. E. BOYD, *Assistant Attorney-General.*

Approved:

JOHN W. GRIGGS, *Attorney-General.*

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LIQUORS.

(*See also* WINES; and DECISIONS 19646, p. 216; 19689, p. 283.)

(19616.)

Taxability of ginger ale and hop ale.

Ginger ale held not to be liable to taxation under Schedule B, act of June 13, 1898, unless specially advertised as medicinal, and not liable under section 3339, Revised Statutes, as a similar fermented liquor to ale, beer, etc.—Hop ale held liable to tax as fermented liquor under section 3339, Revised Statutes, and the venders thereof to special tax as malt liquor dealers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 2, 1898.

SIR: Your letter of the 22d ultimo, asking about the taxability of ginger ale and similar preparations made from essences and extracts, together with sirup and water, has been received. These articles are not taxable as medicinal preparations under Schedule B, unless they are specially advertised as specifics for some disease of the human or animal body.

It has heretofore been ruled by this office that ginger ale is not liable under the clause taxing fermented liquors, it not being a similar fermented liquor to ale, lager beer, and porter. (See section 3339, Revised Statutes.)

Hop ale made from hops, sugar, and water has been held liable to taxation under this section as a similar fermented liquor, and parties manufacturing the same have been held as brewers and wholesale and retail malt liquor dealers.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. M. LEMON, *Collector Fourth District, Grand Rapids, Mich.*

(19745.)

Special tax—Clubs.

Requirements in regard to clubs, whether they shall pay special tax as retail liquor dealers or as proprietors of a billiard room.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 21, 1898.

SIR: Your letter of the 30th ultimo has been received, submitting the petition presented by the officers of the Cumberland Club, of Knoxville, Tenn., setting forth reasons why, in their opinion, the club should not be compelled to pay special tax as a retail liquor dealer or as a proprietor of a billiard room.

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The grounds upon which the officers of this club rely for relief from the retail liquor dealer's special tax are that the club sells wines and liquors to its members only, and not for profit; and they refer to a decision of the supreme court of Tennessee in which it was held upon these grounds that the club was not a retail liquor dealer within the meaning of the law of that State. These same arguments were fully considered by Judge Lowell in the case of The United States *v.* Wittig (22 Int. Rev. Rec., 98), in which the decision was that any course of selling, though to a restricted class of persons and without a view to profit, is within the meaning of the statute imposing the special tax. This is the settled ruling of this office, and has been for more than twenty-five years, and I entertain no doubt that it is correct.

The decision of the supreme court of Tennessee is conclusive with reference to the question of liability of retail liquor dealers under the State law, but it is not accepted here as applicable to the construction of the internal-revenue laws with reference to the special tax imposed upon retail liquor dealers.

The decision in the case of Wittig applies as well to incorporated clubs as to those which are unincorporated. If, therefore, the Cumberland Club refuses to make return and pay the special tax within the current month as a retail liquor dealer, you will next month report the case to this office for assessment of the special tax and 50 per cent additional under section 3176, Revised Statutes.

The club is not required to pay special tax as a proprietor of a billiard room by reason of the fact that it keeps billiard tables for the use of its members and invited guests. The special tax imposed by the ninth paragraph of section 2 of the act of June 13, 1898, upon proprietors of bowling alleys and billiard rooms "for each alley or table" expressly relates only to those buildings or places which are "open to the public." This evidently means open to persons in general, and can not apply to a club which excludes the public and admits to its privileges only its own members and their invited guests.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. J. TYLER, *Collector Second District, Knoxville, Tenn.*

(19994.)

Special tax—Army canteens.

The special tax of a retail liquor dealer (or malt liquor dealer, as the case may be) is required to be paid for the sale of alcoholic liquor at army canteens if the canteens are not Government agencies and the sales of liquor there are made for individual profit.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 31, 1898.

SIR: In reply to your letter of the 25th instant, you are hereby advised that if the canteens at Camp Meade, Middletown, Pa., to

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which you refer, are established under authority of the War Department and are under the control of that Department to the extent of being Government agencies, no special tax is required to be paid for the sale of liquor at such canteens. But if they are carried on merely by private individuals, for their own profit, on permits granted to them by the officers of the camp, these persons must be required to make return and pay special tax as liquors dealers (or malt liquor dealers, as the case may be), and in the event of their refusal to make return and pay special tax within the calendar month in which the liability begins you will report their cases in your next list to this office for assessment of the special tax and penalty.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. H. L. HERSHEY, *Collector Ninth District, Lancaster, Pa.*

(20233.)

Tax and special tax—Hop beer.

A fermented liquor made from hops and sugar and sold under the name "hop beer" or any other name, if it resembles in general character, taste, etc., the fermented malt liquor called "weiss beer," however small its alcoholic strength may be, is subject to tax under the first section of the war-revenue act, and persons who manufacture it for sale are required to pay special tax as brewers and tax on this beer, and also special tax as malt-liquor dealers for selling it in bottles.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 22, 1898.

SIR: In reply to a letter addressed to this office by one of your constituents, Mr. James H. Bingham, of Lawrence, Mass., to which you call attention in your letter of the 17th instant, asking for a ruling with reference to the beverage called "hop beer," which is to "contain 1 per cent or less of alcohol," you will please inform him that, as the first paragraph of section 3244, Revised Statutes, requires that every person shall be regarded as a brewer who "manufactures fermented liquors of any name or description, for sale, from malt, wholly or in part, or from any substitute therefor," if he should manufacture a fermented liquor from hops and sugar which resembles in general character, taste, appearance, etc., weiss beer (weiss beer being a fermented liquor made from malt, and therefore being subject to the tax imposed upon beer by the provisions of the war-revenue act, notwithstanding the fact that its alcoholic strength is usually very small, sometimes being but 1 per cent), this hop beer must be regarded as having been made from a substitute for malt within the meaning of the statute. And if he makes it for sale he must give bond and pay special tax as a brewer and special tax as a malt-liquor dealer for selling it in bottles, and also pay tax on this beer under the first section of the war-revenue act of June 13, 1898.

A genuine "root beer" or "spruce beer"—that is, a beer made from roots, herbs, or bark, or extracts thereof, with sugar—is not a similar

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fermented liquor to weiss beer or to any other of the fermented malt liquors enumerated in section 3339, Revised Statutes, and therefore is not regarded as made from a substitute for malt; and the manufacturer of it is not required to pay tax thereon or special tax as a brewer and malt-liquor dealer for making and selling it.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Hon. W. S. KNOX, *Lawrence, Mass.*

(20366.)

Special tax—Blackberry wine—Stamp tax.

A person who sells blackberry wine (a fermented liquor made from blackberry juice) is required to pay special tax as a liquor dealer for selling the wine, unless he is the manufacturer of it and has made it from berries grown by himself or gathered wild by himself or by persons in his employ, and the wine is sold by him only at the place of manufacture or at his one "general business office" (sec. 3246, Rev. Stat.). When he bottles the wine for sale, he must pay stamp tax and affix the requisite stamp on each bottle.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 21, 1898.

SIR: In reply to a letter of inquiry which you have addressed to this office as to whether you "can make and sell blackberry wine without special United States internal revenue license," you are hereby advised that you can not do so unless the wine is made by you from blackberries of your own growing, or gathered wild by yourself or by persons in your employ, and unless this wine is sold by you only at the place of manufacture or at but one "general business office," (sec. 3246, Rev. Stat.). If this or any other wine is put up in bottles for sale, tax must be paid thereon under the following provisions of Schedule B of the act of June 13, 1898 (war-revenue act):

Sparkling or other wines, when bottled for sale, upon each bottle containing one pint or less, one cent.

Upon each bottle containing more than one pint, two cents.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. J. J. ROBERTSON, *Tally, Va.*

(20464.)

Additional tax on fermented malt liquor.

Opinion of the Attorney-General on the question of the liability of retail dealers to the additional tax of $1 a barrel on fermented malt liquor bought by them prior to June 14, 1898, and held in stock by them on that date.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 28, 1898.

The appended opinion of the honorable Attorney-General is hereby promulgated for the information and guidance of all officers of the Internal-Revenue Service.

N. B. SCOTT, *Commissioner.*

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DEPARTMENT OF JUSTICE,
Washington, D. C., December 27, 1898.

SIR: Prior to the passage of the so-called war-revenue act of June 13, 1898 (30 Stat., 448), which took effect on June 14, 1898, the day next succeeding its passage (section 51), the tax upon fermented liquors was fixed at $1 for every barrel, and was required to be paid by the brewer, the statute (section 3339, Revised Statutes) reading:

"There shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors, brewed or manufactured and sold, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, a tax of one dollar for every barrel containing not more than thirty-one gallons; and at a like rate for any other quantity or for any fractional part of a barrel.

"In estimating and computing such tax, the fractional parts of a barrel shall be, etc. (describing them). The said tax shall be paid by the owner, agent, or superintendent of the brewery or premises in which such fermented liquors are made, and in the manner and at the time hereinafter specified."

The war-revenue act of July 13, 1898, provided in its first section as follows:

"That there shall be paid, in lieu of the tax of one dollar now imposed by law, a tax of two dollars on all beer, lager beer, ale, porter, and other similar fermented liquors, brewed or manufactured and sold, or stored in warehouse, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, for every barrel containing not more than thirty-one gallons; and at a like rate for any other quantity or for the fractional parts of a barrel authorized and defined by law. And section thirty-three hundred and thirty-nine of the Revised Statutes is hereby amended accordingly: *Provided*, That a discount of seven and one half per centum shall be allowed upon all sales by collectors to brewers of the stamps provided for the payment of said tax: *Provided, further*, That the additional tax imposed in this section on all fermented liquors stored in warehouse to which a stamp had been affixed shall be assessed and collected in the manner now provided by law for the collection of taxes not paid by stamps."

In view of the changes thus made in the law taxing the manufacture and sale of fermented liquors, and more especially in view of the provision requiring the tax to be paid on all fermented liquors "brewed or manufactured and sold, *or stored in warehouse*, or removed for consumption or sale," you submit the question, Must retail liquor dealers pay the additional tax of $1 on fermented liquors purchased by them prior to June 14, 1898, and held in stock by them on that date?

The first section of the war-revenue act, after increasing the tax from $1 to $2 per barrel, and after making it applicable to all fermented liquors manufactured and stored in warehouse, as well as to fermented liquors manufactured and sold, or removed for consumption or sale, provides that "section thirty-three hundred and thirty-nine of the Revised Statutes is hereby amended accordingly," and then attaches the two provisos, the first allowing a discount of 7½ per cent, and the second providing for the collection of the additional tax on liquors stored in warehouse by assessment. This section, therefore, amends and supplements section 3339, Revised Statutes, which, as thus modified, would read as follows:

"Section 3339. There shall be paid on all beer, lager beer, ale, porter, and other similar fermented liquors, brewed or manufactured and sold

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or stored in warehouse, or removed for consumption or sale, within the United States, by whatever name such liquors may be called, a tax of *two* dollars for every barrel containing not more than thirty-one gallons; and at a like rate for any other quantity or for any fractional part of a barrel.

"In estimating and computing such tax, the fractional parts of a barrel shall be, etc. (describing them). And the said tax shall be paid by the owner, agent, or superintendent of the brewery or premises in which such fermented liquors are made, and in the manner and at the time hereinafter specified. *Provided, That a discount of seven and one-half per centum shall be allowed upon all sales by collectors to brewers of the stamps provided for the payment of said tax: Provided, further, That the additional tax imposed in this section on all fermented liquors stored in warehouse to which a stamp had been affixed shall be assessed and collected in the manner now provided by law for the collection of taxes not paid by stamps.*"

Section 3339 is one of a number of sections (3335 to 3354, inclusive), which compose chapter 5 of Title 35 of the Revised Statutes, and regulate the levy and collection of the tax on fermented liquors. These sections are all carefully framed for the purpose of carrying into execution a tax payable by the brewer. Thus, section 3339 requires every brewer to give notice to the collector of his intention to enter upon the brewing business; section 3336 provides for the bond which the brewer on giving such notice must execute to secure the payment of the tax; section 3337 prescribes the books the brewer must keep and the reports he must make to the collector of the fermented liquors made and sold by him; section 3338 requires a monthly verification on oath of the book entries; section 3339, quoted above, imposes the tax and expressly provides that it shall be paid by the brewer; section 3340 fixes the penalty for the brewer who evades or attempts to evade the payment of the tax; section 3341 regulates the supply and sale of the revenue stamps denoting the tax; section 3342 prescribes how these stamps shall be affixed and canceled; section 3343 provides a penalty for selling and removing or buying fermented liquors in packages without the proper stamp; section 3344 fixes the penalty for drawing fermented liquors from a package without the stamp, or without destroying the stamp thereon; section 3345 provides that any brewer, under a permit, may remove fermented liquors from his brewery to "a depot, warehouse, or other place used exclusively for storage or sale in the bulk," without affixing the stamps. This is what is known technically as a brewer's warehouse. The succeeding sections provide a penalty for counterfeiting stamps (section 3346), for the disposition of damaged liquor (section 3347), for the sale by brewers at retail (section 3348), for the branding by brewers of packages (section 3349), for a permit for a brewer to change his place of business in case of accident (section 3350), for the sale among brewers of unfermented worts (section 3351), for the forfeiture of unstamped packages of liquor wherever found outside of breweries or warehouses (section 3352), for the punishment of those who unlawfully remove or deface stamps affixed to packages (section 3353), and for the withdrawal from a brewery or warehouse to a bottling house of fermented liquor (section 3354).

In framing these sections, Congress steadily kept in mind that the tax is a tax on the manufacture and sale of fermented liquors, payable by the person who makes the liquor, the brewer. In view of this fact, and the wording of section 3339, as amended by the war-revenue act, I am disposed to think that the tax is not intended to apply to a retail dealer.

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The amendment in section 3339 made by the first section of the war-revenue act, changed the word "one" before "dollar" to "two," inserted the words "or stored in warehouse" after "brewed or manufactured and sold" and added the provisos, without otherwise altering the reading of the section as it stood. It, therefore, still contains the express provision that the tax shall be paid by the brewer. While it now provides that the tax shall be paid on fermented liquors brewed or manufactured and stored in warehouse, this clearly means fermented liquors brewed or manufactured and stored in warehouse by the person liable for the tax, namely, the brewer. Congress evidently had in mind that, outside of the technical bonded brewery warehouse, where fermented liquors are stored without affixing the stamps, the great brewing establishments have agencies in the cities throughout the country, where their liquors are stored and from which they are distributed to the retail trade. If the increase in the tax had not been made applicable to liquors thus stored in warehouse, the brewers, in anticipation of the increase, could have removed immense quantities of liquors from their breweries and bonded warehouses by paying the old tax and held them in storage at their agencies, awaiting the increase in price which the imposition of the additional tax might bring. To prevent this, Congress made the increase applicable to liquors stored in warehouse, but it was liquor stored in warehouse by the brewer.

Another thing. The principal fermented liquor sold in this country is beer. It is a well-known fact that the stock of beer held by a retail dealer is, comparatively speaking, insignificant. Each day he is supplied by the brewer or his agent. The few barrels which a retail dealer keeps as his stock in trade could not properly, in my opinion, be regarded as "beer stored in warehouse." The place of business of a retail dealer in any commodity can not properly be termed a warehouse. Nor can the stock in trade which is at hand and is constantly being drawn on to supply his customers be rightfully regarded as "stored in warehouse." A warehouse is a place for storing goods, not for selling them at retail. The distinction is obvious.

Your question is, therefore, answered in the negative.

Very respectfully, JOHN K. RICHARDS,
Acting Attorney-General.

The SECRETARY OF THE TREASURY.

MANIFESTS.

(*See also* BILLS OF LADING; RECEIPTS; and DECISION 19605, p. 143.)

(19709.)

Stamp tax—Manifests.

Relative to stamping manifests for custom-house entries or clearance.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 18, 1898.

GENTLEMEN: The honorable Secretary of the Treasury some time since referred to me your letter of the 1st instant for reply. * * *

You state that the collector of customs at Philadelphia insists upon

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the placing of an internal-revenue stamp, of the value designated under the provisions of the act of June 13, 1898, upon the import manifests of steamers from foreign ports when such manifests are deposited at the custom house. You state your opinion that the law does not sustain the collector.

You quote the paragraph from Schedule A, "manifest for custom-house entry or clearance of the cargo of any ship, vessel, or steamer *for* a foreign port." You remark that to maintain the stand of the collector, the wording of this paragraph would require to be as follows: "Manifest for custom-house entry or clearance of the cargo of any ship, vessel, or steamer *from* or for a foreign port," and in the absence of such reading you claim that the export manifest alone should bear the stamp, and not both the import and export manifests; that, furthermore, the import manifest is not a document that issues in the United States, but in the country from whence the vessel or steamer sails, and hence that is subjected to the laws and regulations of that country.

Upon the point raised, I can only say that, in view of the use of the words "manifest for custom-house entry," I have not been able to construe the law otherwise than as intending to impose the duty upon manifests of cargoes entering the country, as well as upon cargoes clearing.

It is true that the word "from" appears to have been inadvertently omitted from the statute; but, as stated, there can hardly be a doubt that it was *not* the legislative intention to exempt *entry* manifests. I construe the paragraph in question as though it read "manifest for custom-house entry of the cargo of any ship, vessel, or steamer from a foreign port, or manifest for custom-house clearance of the cargo of any ship, vessel, or steamer for a foreign port."

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Messrs. H. & A. ALLAN,
General Agents Allan Line Steamship Company, Philadelphia, Pa.

MECHANICAL APPLIANCES.

(19702.)

Mechanical appliances.

Article called the "Fulton complexion brush" not taxable under Schedule B as either perfumery, cosmetic, or other similar article.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C, July 15, 1898.

GENTLEMEN: Your letter of the 7th instant is received. You inclose a label, which you say is pasted on a small box containing a face brush which you manufacture to be used on the face and hands, and put up

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one in a box, and ask if such article is liable to stamp tax under Schedule B, act of June 13, 1898.

After examining your label, it appears that it is called the "Fulton complexion brush," which improves the complexion and relieves pain by massage. "It imparts a delicious bloom and removes blemishes from the face and hands." In the opinion of this office, this is a mechanical appliance, which is not included within the terms of that part of Schedule B which taxes perfumery, cosmetics, and other similar articles.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

A. L. SONN BRUSH COMPANY, *Lansingburg, N. Y.*

(19733.)

Electric belts.

Electric belts held to be mechanical appliances, and not taxable under Schedule B, act of July 13, 1898, as medicinal preparations.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 19, 1898.

SIR: Mr. Stamford Agramonte, 461 Fairmount avenue, Jersey City, has written to this office asking if electric belts are taxable under the war-revenue act. * * * You will please advise him that, in the opinion of this office, the electric belt manufactured by him, although recommended as a remedy for diseases of the human body, is a mechanical device or appliance, which is not included under the terms of Schedule B taxing medicinal preparations.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

MR. WM. D. RUTAN, *Collector Fifth District, Newark, N. J.*

MEDICINAL PREPARATIONS.

(*See also* PROPRIETARY ARTICLES.)

(19522.)

Stamp tax—Medicines.

Every compound which is held out as a remedy for disease (even though the formula by which it is made is not a secret, and the manufacturers claim no proprietary right therein) is subject to stamp tax under Schedule B of the act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 17, 1898.

SIR: Messrs. Hollander, Koshland & Co., manufacturing pharmacists, 515 East Lombard street, Baltimore, in a letter to this office dated the 11th instant, submit the question whether the medicines which they

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manufacture, "non-secret preparations," are subject to stamp tax under the act of June 13, 1898.

In regard to these preparations, they say:

The formulæ are printed on either the wrapper or the label; there is no privacy, and we claim no proprietorship, copyright, or trade-mark, anybody having the full and free privilege of putting up the same preparations and under exactly the same style if they so desire. From our reading of the present enactment we take it that such goods are exempt, as when previously proprietary preparations were stamped ours were exempt under the act of February 8, 1875, chap. 36, sec. 22.

* * * You will please inform them that the exempting provision of the act of February 8, 1875, to which they refer, is not contained in the present act of June 13, 1898, and that there is no provision in the present act which can be construed as exempting their medicines from the stamp tax on the ground that they are "non-secret preparations," for which the manufacturers claim no proprietary rights.

Section 20 of the act of June 13, 1898, requires that—

The stamp taxes provided for in Schedule B of this act shall apply to all medicinal articles compounded by any formula, published or unpublished, * * * which are advertised on the package or otherwise as remedies or specifics for any ailment.

Tax must, therefore, be paid on the medicinal compounds in question put up and sold by them, and the requisite stamp affixed to each package.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. F. PARLETT, *Collector Internal Revenue, Baltimore, Md.*

(19564.)

Stamp tax—Soaps.

Soaps are taken out of the category of toilet or laundry articles by a special claim being made for their curative or healing properties, or for their effects on the skin or complexion, and in such cases the packages containing the same must be stamped as medicinal or cosmetic articles.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 23, 1898.

SIR: Colgate & Co., of 53 and 55 John street, New York, have written this office under date of June 17, 1898, asking in regard to the liability to taxation under Schedule B of the act of June 13, 1898, of their medicated tar soap and sulphur soap (sample boxes of which have been received) and soaps of a similar character, either medicated or specially recommended as having medicinal or healing properties. * * * You will please inform them that in regard to liability of soaps to stamp tax under said act this office rules as follows:

Soaps are ordinarily laundry or toilet articles. They may, however,

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and do become medicinal or cosmetic articles whenever the manufacturer or vender holds them out and recommends them to the public for their curative or healing virtues or properties, or for the softening and beautifying effects produced by their use upon the hair, mouth, skin, or complexion. In other words, whenever the manufacturer or vender takes them out of the category of ordinary laundry or toilet soaps and places them in the category of medicinal or cosmetic articles, he must stamp them according to the provisions of Schedule B.

The medicated tar soap, sample of which was submitted by Colgate & Co., is recommended on the label or wrapper as a specific for certain skin diseases and as a remedy for wounds and ulcers, and is, therefore, taxable under Schedule B as a medicinal proprietary article, and must be stamped accordingly.

The sulphur soap, also submitted, is recommended on the label or wrapper as improving the complexion and purifying the skin, and is, therefore, taxable under Schedule B as a cosmetic article, and must be stamped accordingly.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. C. H. TREAT, *Collector Second District, New York, N. Y.*

(19599.)

Stamp tax—Malt extract.

Malt extract is liable to stamp tax under Schedule B, act of June 13, 1898, the same as other medicines. The fact that the substance of the article has already paid tax as beer does not operate to exempt it from tax in its new and medicinal form.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 27, 1898.

SIR: Schmitt & Shaffer, receivers of the John Kauffman Brewing Company, have written to this office under date of June 20, 1898, stating that they prepare a malt extract which they bottle and sell to the drug trade, and they inclose a set of labels that are placed on the bottles. They ask if this article is taxable under Schedule B, act of June 13, 1898. * * * You will please advise them that this office holds that malt extract is liable to taxation under Schedule B, act of June 13, 1898. The fact that a tax has already been paid on the beer from which the malt extract is made has no bearing on the question of the taxability of the article in its new and medicinal form. Other articles which have paid revenue taxes enter largely into the composition of tonics and patent medicines generally—such as distilled spirits, for instance—but it has never been claimed that such medicines and tonics are not to be stamped for that reason.

Very respectfully, N. B. SCOTT, *Commissioner.*

Mr. BERNHARD BETTMANN,
Collector Internal Revenue, First District, Cincinnati, Ohio.

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(19617.)

Stamp tax—Medicinal preparations.

Certain proprietary articles held as taxable—Concentrated extract of witch-hazel; compound licorice powder; seidlitz powders.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 2, 1898.

SIR: The Napier Chemical Company, of 646 East Fourteenth street, New York, have written to this office, under date of June 23, submitting labels of several medicinal articles manufactured by them, and asking if the same are to be stamped under Schedule B, act of June 13, 1898. The names of the articles are as follows: Concentrated extract of witch-hazel, or Hamamelis; Napier compound licorice powder; Pardoe seidlitz powders; Napier seidlitz powders, and Napier extract of witch-hazel.

* * * You will please advise them that this office regards all the articles of which the labels were submitted by them as clearly taxable under Schedule B, act of June 13, 1898, for the following reasons: (1) Because they are all proprietary medicinal articles; (2) they are put up in a manner and form similar to that of proprietary articles in general; (3) because the diseases for which they are remedies are placed on the labels; (4) because special claim is made as to their excellence as preparations. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. C. H. TREAT, *Collector Second District, New York, N. Y.*

(19646.)

Stamp tax—Duffy's Malt Whiskey.

Duffy's Pure Malt Whiskey is, by being advertised as a cure for consumption, dyspepsia, malaria, etc., rendered liable to a stamp tax as a medicinal article under the provisions of Schedule B, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 5, 1898.

SIR: The Duffy Malt Whiskey Company, of your city, under date of the 23d instant, have submitted to this office a sample of Duffy's Pure Malt Whiskey with the accompanying advertisements, and ask if the same is liable to a stamp tax under Schedule B, act of June 13, 1898. * * * You will please advise them that the article in question, although, it is believed, containing nothing but distilled spirits, is, nevertheless, by the manner in which it is presented to the public, by being advertised as a cure for consumption, dyspepsia, malaria, etc.,

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placed in the category of medicinal articles by the manufacturers thereof, and is liable to a stamp tax under the provisions of Schedule B, act of June 13, 1898. You will please advise them further that the engraved promissory note for 1 cent, which is placed over the cork of said bottle, is liable to a stamp tax of 2 cents for each note issued.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. VALENTINE FLECKENSTEIN,
Collector Twenty-eighth District, Rochester, N. Y.

(19687.)

Stamp tax—Food preparations.

Extracts of beef and food preparations.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 13, 1898.

GENTLEMEN: In reply to your letter of the 29th ultimo, I would say that extracts of beef and food preparations generally, unless specially advertised in such a manner as to bring them within the category of medicinal preparations, are not taxable under the internal-revenue laws of the United States.

Respectfully, yours, G. W. WILSON, *Deputy Commissioner.*

Messrs. FAGNAN & GREEN, *Bradford, Pa.*

(19703.)

Bitters as medicinal preparations.

Bitters will be presumed to be medicinal preparations and taxable, unless the non-medicinal character is clearly shown.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 15, 1898.

SIR: Fishel & Levy, of 149 Franklin street, New York City, have written to this office, under date of July 8, 1898, submitting a label used on bottles of Carlsbader Bitters, and asking if the article is taxable under the war-revenue act. * * * You will please advise them that bitters, being specially mentioned in Schedule B, act of June 13, 1898, under the head of "Medicinal proprietary articles and preparations," will be presumed to be medicinal preparations unless the contrary is very clearly shown, and must be stamped in accordance with the retail price.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. C. H. TREAT, *Collector Second District, New York, N. Y.*

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(20202.)

Stamp tax—Medicinal preparations.

Tax on medicinal preparations, not ordinarily sold at retail, to be computed on price charged dispensing druggists.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 18, 1898.

SIR: This office is in receipt of a letter under date of September 24, 1898, from the Antikamnia Chemical Company, St. Louis, Mo., acknowledging receipt, through you, of a ruling by this office that antikamnia is held to be taxable under Schedule B as a trade-mark medicinal preparation, and asking further ruling relative to the amount of tax stamp required to be affixed to the preparation.

This office is reliably informed that, ordinarily, antikamnia is never sold at retail, but is sold to the druggist to be used in compounding prescriptions; hence this office holds that the stamp tax shall be computed upon the price sold to the dispensing druggist, and which in the case of antikamnia is $1.

The fact that antikamnia is occasionally sold in bulk packages to the consumer at a price in advance of the price sold to the dealer will not be deemed sufficient ground upon which to charge bad faith on the part of the manufacturer, if the article is only stamped at the price sold to the dealer.

This ruling not only applies to antikamnia, but to all medicinal preparations that are sold to the dispensing druggist, to be used in compounding prescriptions, which are not ordinarily sold at retail.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. H. C. GRENNER, *Collector First District, St. Louis, Mo.*

(20348.)

Special tax—Blackberry brandy.

Blackberry juice, preserved from spoiling by the addition of the necessary quantity of spirits, is a medicinal article, and persons who sell it only under a label specifying the diseases for which it is held out as a remedy, never knowingly selling it to those who buy it for use as a beverage, are not required to pay special tax as liquor dealers on account of its sale.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 19, 1898.

SIR: Your letter of the 11th instant has been received, concerning the sale of Jarvis Blackberry Brandy by Messrs. Tolerton & Stetson, of Sioux City, Iowa, who "are claiming the right to sell it without the payment of special tax" as retail liquor dealers.

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If this blackberry brandy is, as it has been represented to be, blackberry juice simply preserved from spoiling by the addition of the necessary quantity of spirits, it is clearly medicinal in its nature, and if Messrs. Tolerton & Stetson sell it only by the bottle under a label specifying the diseases for which it is held out as a remedy, and never sell it knowingly to those who buy it for use as a beverage, they are not required to pay special tax as retail liquor dealers on account of such sales.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. J. W. PATTERSON, *Collector Third District, Dubuque, Iowa.*

(20393.)

Stamp tax—Granose Flakes.

Granose Flakes, a food product, held to be taxable, because recommended as a cure for sick headache, catarrh of the stomach, indigestion, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 5, 1898.

SIR: Your letter of November 15, 1898, was received. You ask for information relative to a preparation made by the Battle Creek Sanitarium Health Food Company, Battle Creek, Mich.

On September 30, 1898, T. B. Carson, then revenue agent of St. Louis, Mo., submitted a description of the food preparations manufactured by this company.

This office holds that Granose Flakes, being recommended as a specific for the cure of inactivity of the bowels, sick headache, catarrh of the stomach, and indigestion, all being ailments of the human body, are undoubtedly taxable under Schedule B, according to the rulings of this office, as a medicinal preparation.

Wheat Gluten, Gluten No. 2, and Pure Gluten Meal are held to be not taxable, as they are recommended as foods for the sick rather than as remedies for any ailments. This office recognizes a distinction between food preparations recommended simply as a diet for persons suffering from certain complaints and those recommended as a cure for such complaints.

You will please instruct the Battle Creek Sanitarium Health Food Company in accordance with this ruling, and obtain from them, under oath, a statement of the amount of Granose Flakes sold since July 1, 1898, which will form the basis of an assessment against them.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHARLES WRIGHT, *Collector First District, Detroit, Mich.*

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(20413.)

Stamp tax—Petrolatum.

Unclarified petrolatum which requires further chemical manipulation to place it in a salable condition may be shipped in bulk without stamps; the finished product must, however, be stamped, in whatever quantity sold.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 7, 1898.

SIR: This office is in receipt of a petition, under date of July 22, 1898, signed by the Beaver Refining Company, of Washington, Pa.; the Canfield Oil Company, of Cleveland, Ohio; the Tiona Manufacturing Company, of Tiona, Pa.; the Binghamton Oil Refining Company, of Binghamton, N. Y.; the Union Petroleum Company, of Philadelphia, Pa., and W. H. Dougherty & Son, Petrolia, Pa., in which they submit that before the war-revenue law applies to petrolatum it must be in a salable condition. They submit two sample boxes, marked Exhibit A and B, one as it is shipped in tank cars, barrels, etc., and which requires to be reheated after a special manner in order to become clarified and fit for sale. The other sample submitted is a clarified product as sold over the counter by retailers in small packages, and as sold by these companies in 5 and 10 pound packages.

They submit that, inasmuch as this unfinished petrolatum must undergo a chemical process before it is placed in a salable condition, it can not be held to be taxable under Schedule B. This petition was submitted by Mr. Edward E. Kattell, representing the Binghamton Oil Refining Company, of Binghamton, N. Y.

The Binghamton Oil Refining Company, of Binghamton, N. Y., have been referred to you, and this office will thank you to advise them that the unclarified petrolatum submitted as Exhibit B, and as a sample of the product shipped in bulk by the different companies and which requires to be treated by an additional chemical process before it is placed in a salable condition, is not taxable, as it is held to be an unfinished product. The other petrolatum, Exhibit A, sold in 5 and 10 pound packages, or however sold, is a finished product, and is specified as taxable under Shedule B. If, however, the unclarified and unfinished petrolatum, as shown by Exhibit B, is sold for use by consumers, either at wholesale or retail, it is liable to tax at the same rate as the finished product.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHARLES C. COLE,
Collector, Twenty-first District, Syracuse, N. Y.

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(20460.)

Opinion of the Attorney-General in regard to the taxability of medicinal preparations under Schedule B, act of June 13, 1898.

[Circular No. 205.—Int. Rev. No. 519.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 22, 1898.

The appended opinion of the honorable Attorney-General is hereby promulgated for the information and guidance of all officers of the Internal Revenue Service.

N. B. SCOTT, *Commissioner.*

Approved:
L. J. GAGE, *Secretary.*

DEPARTMENT OF JUSTICE,
Washington, D. C., December 22, 1898.

HON. SECRETARY OF THE TREASURY.

SIR: I have the honor to acknowledge receipt of your two letters, one of the 11th and the other of the 21st of October, 1898, both requesting opinions as to the construction of section 20 of the act of June 13, 1898, known as the war-revenue act.

In your letter of the 21st of October two questions are propounded: (1) "What, under the law, is an uncompounded medicinal drug?" (2) "What, under the law, is an uncompounded medicinal chemical?"

The inquiry as to what is an uncompounded medicinal drug or an uncompounded chemical is not, in my opinion, a question of law, but a question of fact, to be determined according to the general definition of the word "uncompounded," or according to such technical meaning as has become attached to it as a pharmaceutical or medical term. It is clear, however, that no tax is imposed by the act above mentioned on any uncompounded medicinal drug or chemical, no matter how put up or what is claimed for it, the same being excepted from the operations of the act by the first clause of the proviso in section 20, which is in these words: "That no stamp tax shall be imposed upon any uncompounded medicinal drug or chemical."

The question, therefore, left for my consideration is the request contained in your letter of the 11th of October for an opinion as to the construction of the last clause of section 20 of the said act. This clause reads as follows:

"The stamp taxes provided for in Schedule B of this act shall apply to all medicinal articles compounded by any formula, published or unpublished, which are put up in style or manner similar to that of patent, trade-mark, or proprietary medicine in general, or which are advertised on the package or otherwise as remedies or specifics for any ailment, or as having any special claim to merit, or to any peculiar advantage in mode of preparation, quality, use, or effect."

If we digest this provision of the law, we find that the subjects of taxation to be included within it comprise—

(1) Medicinal articles compounded by any formula, published or

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unpublished, which are put up in style or manner similar to that of patent, trade-mark, or proprietary medicines in general.

(2) Medicinal articles compounded by any formula, published or unpublished, which are advertised on the package or otherwise as remedies or specifics for any ailment, or as having any special claim to merit, or to any peculiar advantage in mode of preparation, quality, use, or effect.

The manner and style of putting up what are known as patent, trade-mark, or proprietary medicines in general is so familiar to the public that it is readily understood as to what articles under the first of the above divisions the stamp tax applies, the general style of putting up these medicinal articles being in a bottle, phial, box, or other inclosure, accompanied by the name of the preparation, the name of the proprietor, owner, or manufacturer, together with the name of the disease or diseases for which the medicine is claimed to be a remedy or specific, with directions as to use, etc. I may better illustrate what articles are comprehended under this first division by calling attention to some of the exhibits which have been filed with me for consideration in connection with this question. For instance, Chamberlain's Cough Remedy. This medicine is put up in a bottle which will probably hold 2 ounces. Blown in the bottle on the side is, "Chamberlain's Cough Remedy, Des Moines, Ia., U. S. A." On the other side of the bottle is pasted a label, upon which is printed:

CHAMBERLAIN'S COUGH REMEDY.

For the cure of coughs, colds, croup, whooping cough, influenza, hoarseness, bronchitis, and sore throat.

It is also a certain preventive for croup if used as directed.

Dose: The average dose for a grown person, for a cold, is one teaspoonful; for a child, a half teaspoonful. If that is ineffectual, take more. If it nauseates, take less.

For croup give one or two teaspoonfuls, according to age of the child, every ten minutes until vomiting is produced.

[Read the directions before using.]

Manufactured by CHAMBERLAIN MEDICINE COMPANY, Des Moines, Iowa.

Around the bottle is a printed circular as to the special merit claimed for the preparation, and also as to its use and effect. The bottle, with this printed circular around it, is inclosed in a paper case or wrapper, securely pasted, and upon the outside of this case or wrapper is also printed the name of the medicine, the names of the diseases which it is claimed to cure, the name and location of the manufacturer, and the price of the bottle or package, which is 25 cents.

Now, that is a proprietary medicine, put up in the style and manner of patent, trade-mark, or proprietary medicines in general.

A great number of other proprietary preparations, such as Simmons' Liver Regulator, Paine's Celery Compound, Warner's Safe Liver and Kidney Cure, Crane's Syrup of Tar and Wild Cherry, all of which are put up in manner and style similar to the above-described remedy, and advertised as remedies and specifics, have been called to my attention as exhibits in passing upon the question which your letter presents. These medicinal articles, with others put up in the same manner and style, and offered to the public, are readily seen to be included within the provisions of the act.

The only difficulty seems to be to determine the scope of the language under the second heading, which I have given before, and to say whether it increases the subjects of taxation referred to under the first heading, and if so, how far, or is intended more particularly to describe

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such subjects in order to prevent evasion of the tax. I think a proper construction is to hold the latter to be the intent of the law.

Under the second heading, articles to be subject to the tax must not only be compounded by some formula, but must be remedies or specifics for some ailment, or have special claim to merit, or to peculiar advantage in mode of preparation, quality, use, or effect. If the lawmakers had stopped here, they would perhaps have left a broader field for the consideration of this subject; but, in addition to the above, the requirement of the law is that these medicinal articles must be put up in packages, and not only put up in packages, but there must be an advertisement on each package as to the diseases for which the medicine is a remedy or specific, or as to the special merits, etc., which are claimed for it, or, if the advertisement is not on the package itself, there must be an advertisement otherwise made, by which the public is referred particularly to the medicine in the package or class of packages. In other words, the advertisement either goes with the package itself into the hands of the consumer, so as to indicate to him the character of the medicine, the disease for which it is prescribed, and the special merit, etc., which is claimed for it, or the advertisement, made in newspapers, handbills, circulars, or otherwise, apart from the packages, must point the reader to this particular medicine.

Mr. Bouvier defines "advertisement" to mean "a notice published in handbills or a newspaper." Hence to advertise would mean to give publicity through the medium of newspapers, handbills, circulars, or some similar way, so as to call particular attention to a subject-matter, in order that people may identify it from the description given in the advertisement.

This line of reasoning, which, I think, is sustained by the wording of the act, leads to the conclusion that it was the purpose of the Congress to levy the tax under the provision of the law referred to upon proprietary medicinal articles, or such as assume the character before the public of proprietary, patent, or trade-mark articles, and such medicinal articles as go from the hands of the proprietor, compounder, or manufacturer, so put up in packages as to comport with the manner and style of patent, trade-mark, or proprietary medicines in general; or where medicinal articles, though not put up in the usual style of patent, trade-mark, or proprietary articles in general, still have the characteristics of patent, trade-mark, or proprietary articles to the extent that they are advertised on the packages, or otherwise as specifics or remedies for certain ailments, or have claims to special merit or advantage in mode of preparation, quality, use, or effect. I am borne out in this conclusion by the fact that when we turn to Schedule B, where the manner of paying the tax upon these articles is provided, we find that in the first clause of Schedule B the subjects of taxation are described in these words: "Medicinal *proprietary* articles and preparations." This description is not general so as to include medicinal articles and preparations which may bear a technical or pharmaceutical name, indicative of the disease for which they are used, in order to classify them and distinguish them from other medicines, but is confined to such as are "proprietary." Then, when we come to consider the manner in which the tax is estimated, we see that the Congress still had in mind packages, packets, boxes, bottles, pots, etc., each of which must have a retail price or value attached to it so as to determine the amount of the stamp to be placed upon it.

Now, to draw the distinction more clearly between medicinal articles or preparations which I hold to be taxable under the provisions of the

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law and those that are not, I will call attention to a class of preparations or medicines, samples of which have been filed with me for examination, and which, in my opinion, are not taxable. They are articles which are put up in bottles, phials, or other packages, more particularly for the use of physicians and pharmacists. They are such articles as anti-streptococcic serum, antitetanic serum, antidiphtheritic serum, and many others of like character. These articles are not put up in the manner or style of patent, trade-mark, or proprietary medicines in general, nor are they advertised to the public upon the package or otherwise as specifics or remedies for particular diseases, or as claiming special merit, etc. The names upon the bottles, phials, or other packages containing these preparations are simply medicinal or pharmaceutical designations used to indicate the class of medicines to which they belong, and are for the guidance of physicians and pharmacists, and under their directions to be used by the consumer. I also include under this head such medicinal articles as pil. migraine comp., pil. neuralgic, compressed tablets antimalarial, and medicines of similar classes put up in quantities in bottles or other packages for the use of physicians, druggists, and pharmacists, through whom they are dealt out to consumers as prepared prescriptions. These articles have the technical medical name upon the bottle or other package and also the formula by which they are prepared. There is no exclusive proprietorship or right of manufacture claimed in them, but any pharmacist or manufacturing druggist has the right to make them after the formula given, and there is no retail price or value stated on the bottle or other package containing them.

It might make the distinction still more plain to say that the class of medicines which, in my opinion, are taxable under the provisions of the law, are such as I have described above, which go to the consumer in the unbroken package in which they are put up by the proprietor, manufacturer, or compounder, with name, disease, and directions for use without the intervention of a prescription of a physician or pharmacist. Whilst, on the other hand, the provisions of the act do not reach such medicinal articles or preparations as are put up under pharmaceutical or classifying names for the use of physicians in their practice or of pharmacists or druggists in their trade.

Calomel is a medicinal article or remedy compounded (I believe) by a formula from mercury, sulphuric acid, chloride of sodium, and distilled water. It is a well-known remedy for certain diseases, and special merit is claimed for it in the treatment of diseases like bilious fevers, hepatitis, jaundice, bilious and painter's colic, and other affections attended with congestion of the portal system or torpidity of the hepatic function. This medicinal article is put up in quantities by the manufacturers after the prescribed formula, and is sold to physicians, pharmacists, and druggists, and the latter in turn prescribe it for the afflicted and deal it out in quantities to suit the emergency. Now, calomel is not taxable under the provisions of the war-revenue act, for the reason that it does not come within the description of articles declared to be subject to tax under the provisions of the act. In the first place, it is not put up in the manner and style of patent, trade-mark, or proprietary medicines in general; and, in the second place, it is not advertised on the package in which it is put up as contemplated by the act; and even if the manufacturer or compounder were to put on the inclosure containing the calomel the additional words "antibilious" or "antihepatitis," it would, in my opinion, only have the effect to designate more particularly the class of medicines to which it belongs, and not to advertise it as a specific or remedy for a particular disease. I have given this illustration,

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and used the name of a well-known medicinal article, to make the distinction which I have attempted to draw the more easily understood.

Respectfully, JAMES E. BOYD,
Assistant Attorney-General.

Approved:
JOHN W. GRIGGS, *Attorney-General.*

MORTGAGES.

(*See also* CONVEYANCES; and DECISIONS 19692, p. 56; 19711, p. 94; 19736, p. 116; 19764, p. 82; 19800, p. 95; 20320, p. 140.)

(19679.)

Stamp tax—Mortgages.

Mortgages or pledges of land or personal property.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 12, 1898.

SIR: * * * There is no difference in the rate of taxation between that on chattel mortgage and on a mortgage of realty.

Upon a mortgage or pledge of real or personal property for a sum exceeding $1,000 and not exceeding $1,500 a stamp of 25 cents is required, and on each $500 or fractional part thereof in excess of $1,500 25 cents.

Each and every assignment or transfer of the mortgage, or the renewal or continuance of any agreement or contract, by letter or otherwise, requires a stamp duty at the same rate as that imposed on the original instrument.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. W. C. ADAMSON, *House of Representatives, Washington, D. C.*

(19680.)

Stamp tax—Assignments.

Assignment of mortgage—Promissory notes and assignment thereof.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 12, 1898.

SIR: * * * Upon each and every assignment of a trust deed or mortgage a stamp duty is required at the same rate as that imposed on the original instrument.

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Any promissory note, except bank notes issued for circulation, for a sum not exceeding $100 requires a stamp of 2 cents, and for each additional $100 or fractional part thereof in excess of $100, 2 cents.

No stamp is required upon the transfer, by assignment, of promissory notes.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. GEORGE M. RUPERT, *West Chester, Pa.*

(19697.)

Stamp tax—Mortgages.

No tax upon mortgages unless exceeding $1,000, when mortgage is stamped as promissory note.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 14, 1898.

SIR: I have your letter of the 1st instant, asking a construction of the war-revenue law in reference to mortgages under $1,000. Schedule A of the act of June 13, 1898, under the head of mortgage or pledge of real or personal property, provides that a tax of 25 cents shall be paid on such instruments exceeding $1,000 and not exceeding $1,500, and on each $500 or fractional part thereof in excess of $1,500 25 cents. There is no tax upon mortgages unless exceeding $1,000. In all cases, however, where they are accompanied by a note or a bond for the amounts secured by the mortgage, the note or bond, which is in effect a promissory note, is subject to a stamp tax, as provided in Schedule A, under the head of bill of exchange, etc.

Where a mortgage is given for a sum of $1,000 or less, and therefore not subject to tax as a mortgage, and is not accompanied with a note or bond for the payment of the money, but contains a clause or stipulation promising to pay a certain amount, the instrument will be subject to taxation as a promissory note according to the rate provided therefor.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. EDWIN W. ROBERTSON,
President Loan and Exchange Bank, Columbia, S. C.

(19701.)

Stamp tax—Mortgage-investment company.

Relative to liability of a mortgage-investment company—Instruments to be stamped under Schedule A.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 15, 1898.

SIR: I have received your letter of the 8th instant, asking for rulings on various questions drawn up by the counsel of your company with

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reference to the stamp-tax liability resting upon your company in the different transactions connected with the conduct of its business.

The first questions submitted relate to the special-tax liability (if any) of the Middlesex Banking Company either as a banker or a broker, under the first and second paragraphs of section 2 of the act of June 13, 1898. The charter of the company, it is stated, authorizes it—

To receive money on deposit and to allow and pay interest on said money, and to loan the same at interest; to borrow money and issue its obligations, negotiable or otherwise, therefor, in which obligations, if secured by first liens upon real estate worth at least double the face thereof, holders of trust funds may invest such funds.

It is further stated that the charter provides that—

All the property and estate of every kind belonging to said corporation shall be and stand charged with the fulfillment of said obligations as the first and prior liens thereon, in case of the failure of said corporation.

It is understood that the business conducted by the Middlesex Banking Company, under its charter, is the business of a mortgage investment company, employing its own capital, and money borrowed for which its obligations are issued, in the making of mortgage loans on real estate; and that the payment of these obligations is secured by the deposit, with an incorporated trust company, of the notes and mortgages taken for the loans which the company has made on real estate. If this is a full and complete statement of the character of the business transacted by this company, and if the deposits received by it are not subject to be paid or remitted upon draft, check, or order, and it neither advances nor loans money on stocks, bonds, bullion, bills of exchange, or promissory notes, nor receives for discount or sale stocks, bonds, bullion, bills of exchange, or promissory notes, it is not required to pay special tax as a banker under this act.

If the statement made and submitted as to the company's transactions is complete, namely, that its business is not to negotiate purchases or sales of securities of any kind, but to issue its own obligations for money borrowed, and that it does not negotiate purchases or sales on stocks, bonds, promissory notes, or any other securities whatever, either on its own account or for others, it is not required to pay special tax as a broker under the second paragraph of section 2 of the act.

To the remaining series of questions submitted I reply as follows:

(1) Where a promissory note is secured by a mortgage, stamp tax must be paid on each, and the requisite stamp affixed both to the note and the mortgage.

* * * * * * *

(3) The memorandum on the back of a deed or mortgage, noting the date of its filing and the fact that it was filed and recorded by the register or recorder, is held not to be such a certificate as requires a stamp.

(4) In the satisfaction of a mortgage, where a regular release is executed, sealed, and delivered, it is held that this release comes under the

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head of a conveyance, and that stamp tax is required to be paid thereon according to the value of the interests released or conveyed by such instrument.[1] Where, however, the local laws authorize entry of satisfaction upon the record, and the mortgage is thus canceled, such entry does not require a stamp, as it is regarded neither as a release nor a certificate. If, however, the mortgagee, as he has a right to do in some States, makes a power of attorney to the register, or recorder, or other person, for the entry of satisfaction of the mortgage, stamp tax must be paid on this power of attorney.

(5) Where there is no actual sale of the mortgage, but an assignment is made of the mortgage by a separate written instrument, and the mortgage and the instrument are deposited with the trustee as a security for the company's obligations, stamp tax must be paid on the memorandum of the pledge of these instruments at the rate fixed by the paragraph relating to mortgage or pledge, on page 16 of the act of June 13, 1898. Where, however, the papers are placed in the hands of others than the primary holders with a formal assignment thereon or attached thereto, the stamp tax is required to be paid on this assignment.

(6) Where a mortgage is deposited with a trustee as security for the company's obligations without any assignment, but accompanied by a power of attorney authorizing an assignment in the event of a default upon the obligations, stamp tax is required to be paid on the pledge of the mortgage and also on the power of attorney, but not on the transfer authorized until this transfer is completed.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. ROBERT N. JACKSON,
President Middlesex Banking Company, Middletown, Conn.

(19742.)

Stamp tax—Mortgages, trust-deeds, etc.

Requirements relating to the various instruments and documents used in the transactions of the Chicago Real Estate Board.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 20, 1898.

SIR: Your letter of the 14th instant has been received, submitting, for examination by this office, the opinion rendered to you by your counsel, Mr. John P. Wilson, as to the requirements of Schedule A of the act of June 13, 1898, relating to the various instruments and documents used in the transactions of your board.

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[1] Modified; see 20440, p. 235.

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He has correctly advised you that the provisions of the statute requiring a stamp upon promissory notes, and also upon mortgages and trust-deeds securing the same, are distinct and separate, and that stamps are required on both note and mortgage. But his opinion that a release deed, reconveying property conveyed by mortgages or trust-deeds to secure the payment of money given after the payment of the debt secured thereby, does not require a stamp, is not in accordance with the ruling of this office. It has been held that where, in the satisfaction of the mortgage, a regular release is executed, the release comes under the head of a "conveyance," and that stamp tax is required to be paid thereon according to the value of the interests released or conveyed by such instrument. Where, however, the local laws authorize entry of satisfaction and the mortgage is thus canceled, such entry does not require a stamp, as it is regarded neither as a release nor as a certificate.[1]

He is inclined to the opinion that coupon or interest notes in no case require to be stamped; but it is held by this office that when a note or bond is given for the payment of money, and separate notes or bonds are given for accruing interest, not only is the note or bond for the principal sum required to be stamped, but the separate bonds or notes given for the interest must also be stamped. In the case, however, of a bond for a principal sum with coupons attached denoting the accruing interest, the purpose being to detach the coupons as the interest becomes due and surrender them simply to denote the payment of that interest, it is held that the only stamp required is the stamp upon the bond for the principal sum, and that the interest coupons attached do not require separate stamps.

He has correctly advised you that orders for the payment of money at sight or on demand are subject to the stamp tax imposed on checks by the third paragraph of Schedule A; but that on orders for the payment of money "otherwise than at sight or on demand" the stamp tax must be paid as on promissory notes under the fourth paragraph of the schedule.

His further statement that orders for money from owners or architects require to be stamped is in accordance with the ruling of this office under the law.

His statement made to you of the stamp taxes required to be paid on the various instruments which he mentions, viz, real estate sale contract, deed of conveyance of realty, lease, mortgage or trust deed, promissory note, and transfer of mortgage, is in accordance with the provisions of the law.

He is also correct in stating that an architect's certificate requires no stamp, unless, by an indorsement, it becomes an order for the payment of money; and that an affidavit does not require a stamp, nor does a waiver of lien.

With reference to an acknowledgment of a deed before a notary, it is

[1] Modified; see 20440, page 235.

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held that the certificate of acknowledgment does not require a separate stamp, but that it is covered by the stamp upon the completed deed or conveyance.

Where leases are executed in duplicate, so that both are originals, both are required to be stamped; but if there be but one original, copies thereof are not required to be stamped.

A memorandum of sale, under the head of "Contract" in Schedule A, means only a contract; and it is this memorandum which requires the 10-cent stamp.

A statement of account showing the receipts and disbursements in connection with a sale, and not being the contract of sale, does not require a stamp.

A broker's memorandum of sale of promissory notes ("notes of hand") requires the 10-cent stamp.

It is held that a person is not a broker within the meaning of the second paragraph of section 2 of the act of June 13, 1898, by reason of engaging in the business of buying, selling, or leasing real estate, or because of negotiating loans on real estate as an agent, where there is no sale of the securities; but that if he makes loans for himself or others, and afterwards sells the securities, this brings him within the definition of a broker in the act, and he is required to pay special tax accordingly.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES W. HEDENBERG,
Secretary Chicago Real Estate Board, Chicago, Ill.

(19834.)

Stamp tax—Releases of mortgages and trust-deeds.[1]

Releases of mortgages and trust-deeds are required to be stamped.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 5, 1898.

SIR: In reply to your letter of the 3d instant, transmitting a letter from Mr. John A. Cass, Philadelphia, in which he requests to be advised as to stamping releases of mortgages, you are informed that deeds of release of mortgages and trust-deeds are required to be stamped. If the releases are simply certificates that a lien has been removed from the property, only a 10-cent stamp is necessary; but if they are instruments which reconvey the title to the mortgagor they must be stamped like other deeds, the consideration being the amount released.

Where local laws authorize entry of satisfaction upon the record, and the mortgage is thus canceled, such entry does not require a stamp. If the mortgagee, as he has a right to do in some States, makes a power

[1] Modified; see 20440, page 235.

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of attorney to the register, or recorder, or other person, for the entry of satisfaction of the mortgage, stamp tax must be paid on this power of attorney.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. P. A. MCCLAIN, *Collector First District, Philadelphia, Pa.*

(19932.)

Stamp tax—Deeds, etc.

Deeds, leases, and powers of attorney, executed and delivered previous to July 1, 1898, exempt from taxation—On deeds in trust, and in deeds where the consideration is "love and affection," tax based on actual value of property conveyed—In correction deeds, the tax is same as that imposed on deed corrected—Release deed and deeds terminating trusts taxable the same as the instrument which they release or terminate—Assignment of mortgage taxable on the basis of the amount assigned—Assignment of unexpired term of lease taxable on the basis of the term assigned—Deeds conveying realty subject to incumbrance, taxable according to actual value of realty conveyed, regardless of any incumbrances that may exist—Clerk's certificate to notarial acknowledgment, taxable 10 cents—Recorder or register must determine what papers he will receive or reject.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 20, 1898.

SIR: This office is in receipt of your letters of July 19 and August 17, 1898, and your inquiries are quoted below and the answers to the same follow.

(1) Are deeds, mortgages, leases, and powers of attorney which were executed and acknowledged previous to July 1, 1898, but not delivered until said date or thereafter, subject to said tax?

These instruments are subject to taxation if delivered on or after July 1, 1898.

(2) Are deeds, mortgages, leases, and powers of attorney which were executed, acknowledged, and delivered previous to July 1, 1898, but not presented for record until said date or thereafter, subject to said tax?

In regard to mortgages, the Assistant Attorney-General of the United States has advised this office that mortgages, no matter what the date, should not be admitted to registration when presented on or after July 1, 1898, unless there is attached and canceled the revenue stamps provided for the amount of the mortgage, and, in compliance with this advice, this office holds that mortgages presented after July 1, 1898, for record require to be stamped. Deeds, leases, and powers of attorney which were executed, acknowledged, and delivered and were in full force and operation previous to July 1, 1898, do not by law require to be stamped unless there is some local statute requiring recordation as an element of validity. This being so (presuming, of course, that there is no such statute in your State), these instruments

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are not required by law to be stamped. It would, therefore, be lawful for you to record or register them without requiring stamps to be affixed.

(3) Is said tax levied upon conveyances which are made for no actual valuable consideration, and which do not convey "realty sold," in the generally accepted sense of the word "sold," but which, for example, are given for the following purposes: (*a*) To convey land as a gift: (*b*) to create trusts such as under a simple trust deed, whereby realty is conveyed to a trustee to be administered for the benefit of the grantor or others, or under a deed of general assignment for the benefit of creditors, made either by the insolvent or by a register in insolvency; (*c*) deed made solely to correct error or supply omission in a previous deed and perfect title; (*d*) deed terminating a trust, whereby the legal title is vested in the owner of the equitable title.

In reply to this question, you are advised that the word "sold" is not the governing word in the paragraph relating to conveyances. The instrument that vests title is subject to taxation, and if it is a deed where the consideration is "love and affection" it should be taxed according to the actual value of the property conveyed and vested.

Under trust deeds, the taxation is also in proportion to the actual value of the property.

A deed made to correct errors or supply omissions in a previous deed is required to be stamped in the same amount as would be required on the deed corrected.

A deed terminating a trust and revesting title should be stamped according to the amount required on the trust deed that is released or terminated.

(4) Is an assignment of a mortgage taxed upon the amount due upon the principal of the mortgage note when a part of the principal has been paid previous to such assignment, or upon the original amount of said note?

If a part of the principal sum has been paid, this is in law a reduction of the mortgage to the extent of the payment. The assignment then becomes an assignment for the principal sum less the payment. The tax should be based on this principal sum less the payment. There should be some direct evidence of this fact of reduction on the record; otherwise, the assignment, as far as the record is concerned, would be for the principal amount.

(5) Is the assignment or transfer of a lease taxed upon that portion of the term of the lease which is unexpired at the time of the making of such transfer or upon the full term of the lease?

The assignment or transfer referred to assigns or transfers but the unexpired term. The tax imposed should be the amount required were a lease executed for this unexpired term.

(6) In cases where realty is sold subject to mortgage, whether the mortgage is assumed by the purchaser or not, is the tax levied upon the value of the equity which is vested in the purchaser or upon the value of the whole property?

The tax imposed in this instance is based upon the whole value of

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the property regardless of any incumbrance or incumbrances that it may have.

* * * * * * *

(8) Is a certificate of acknowledgment taxed in addition to the tax imposed upon the instrument to which the acknowledgment is made?

A certificate of acknowledgment is not taxed in addition to the tax imposed upon the instrument to which the acknowledgment is made.

(9) Is a tax levied upon a certificate of a clerk of court or other proper officer, attached to a deed, certifying to the authority and signature of a notary public who has subscribed to the certificate of acknowledgment to the deed, where, as in the State of Rhode Island, the statutes of the State do not require said first-mentioned certificate?

The tax imposed on this certificate is 10 cents.

(10) The recorder of deeds is required by law to give certified copies of the records in his custody when so requested. Are such certificates taxed?

These certificates are subject to a taxation of 10 cents.

(11) Sheriffs in serving writs of attachment of real estate are required by law to file an *attested* copy of the original writ in the office of the recorder of deeds. Is such attestation taxed?

This attestation copy of the original writ is not subject to taxation, and you can record same without requiring it to be stamped.

(12) Is there any provision whereby any instrument exempt from taxation may have the fact of such exemption indorsed thereon by the collector of the district or his deputies, or other officer of the Government? Such a practice existed, in Rhode Island at least, during the operation of the last war-revenue law, thus, as is especially desirable in the conveyance of realty, furnishing recordable evidence as to the validity of the exempted instrument so far as compliance with the war-revenue law was concerned.

There is no provision in the law requiring a collector or his deputy or other officer of the Government to certify that an instrument is exempt from taxation when presented for record. The recorder of deeds must, in the absence of a higher controlling tribunal, determine the question as to whether or not he will receive and record an instrument presented to him.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. EDWARD C. JOYCE, *Recorder of Deeds, Providence, R. I.*

(20226.)

Stamp tax—Mortgage.

Where mortgage states full amount secured and provides for present and future issues of bonds, it should be stamped according to the full amount secured.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 13, 1898.

SIR: This office is in receipt of your letter of October 8, 1898, in which you inclose a letter submitted to you by Messrs. Sheehan & Col-

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lin, 32 Nassau street, New York, under the same date as your letter. These gentlemen state that the Edison Electric Illuminating Company, of Brooklyn, is executing a mortgage to secure $10,000,000 of its bonds. The mortgage expresely provides that only $2,000,000 of the bonds are to be issued at present. The next issue of $1,875,000 is to be made in 1900. The remaining $6,125,000 of the bonds will be issued from time to time during the fifty years of the mortgage for betterments and improvements. Their first question is, Must the mortgage be now stamped on the basis that it is a mortgage for $2,000,000, which is the entire amount of money lent at the time, or must the stamp tax be computed on the entire amount of $10,000,000?

These gentlemen state that they propose to affix stamps now on the basis that it is a mortgage for $2,000,000, and on each additional issue of bonds affix an additional amount of stamps, and they wish to know if this is correct. You will advise them that the position that they have taken is incorrect. This instrument is a fully executed and completed contract, which provides for a specific and liquidated amount of money upon which this company pledges its credit. There will be required no other instrument when each issue of bonds is made, although these issues are *in futuro*. They are certain, and specifically provided for and the amount definitely set forth. If these gentlemen wish to escape the taxation on the $8,000,000 worth of bonds to be issued in the future, they should wait until the time that they desire to issue the bonds and then execute the instrument to secure them; otherwise, this office considers that this corporation has obligated itself to the extent of $10,000,000, where the consideration is executed, although there may be some possibility of part of the consideration being considered executory. This latter can not be said to be true, considering it from the standpoint of taxation. There are no uncertainties as to time or amount, nor is there anything to be done to the instrument in the future. This law in so far as this question is concerned does not impose a taxation on the transaction. The taxation is imposed on the document, and is a pure and simple documentary taxation. The question to be decided is, Is this a mortgage for $10,000,000 or is it a mortgage for $2,000,000? This office considers it to be unquestionably a mortgage for $10,000,000, fully executed, passed and settled, with nothing remaining to be done concerning this instrument. It is, therefore, held to be subject to taxation as a mortgage for $10,000,000.

These gentlemen state, secondly, that the Kings County Electric Light and Power Company also separately executes its mortgage to secure the same bonds, and they ask, Must this mortgage also be stamped, or may the two mortgages be treated as one, both being given to secure the same loan? You will advise them concerning the mortgage executed by the Kings County Electric Light and Power Company that it is subject to the same taxation as the one executed by the Edison Electric Illuminating Company, of Brooklyn.

It will be seen from the opinion hereinbefore expressed that the taxation is imposed on the document. As there are two documents, there

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must necessarily be two taxations. If the mortgaging of these two companies' plants is made in one instrument to which they are both parties, there is but one taxation imposed; otherwise there are as many taxations as there are instruments used in accomplishing the desired end.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. FRANK R. MOORE, *Collector Internal Revenue, Brooklyn, N. Y.*

(20440.)

Stamp tax—Releases of mortgages.

Releases of mortgages and of deeds of trust operating as mortgages are not subject to taxation, no matter in what form they are executed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 15, 1898.

SIR: I am in receipt of your letter of December 10, 1898, inclosing a letter from H. H. Smith, treasurer of the Middletown Savings Bank, under date of December 8, written in reference to the taxation imposed upon releases of deeds of trust and mortgages, in which these instruments have been held to be subject to taxation as conveyances of land revesting title.

This office has given careful consideration to the question of taxation of these instruments, and has decided to modify the rulings heretofore made on these documents.

The paragraph relating to conveyances subjects to taxation any deed, instrument, or writing whereby any lands, tenements, or other realty sold shall be granted, assigned, transferred, or otherwise conveyed to or vested in the purchaser, * * * and the rate of taxation imposed on these instruments is 50 cents where the consideration for the conveyance or the value of the land conveyed exceeds $100 and does not exceed $500, and for each additional $500 or fractional part thereof in excess of $500, 50 cents. Under the construction placed upon this paragraph, all instruments that vested title were held to be subject to this taxation, although releases are not specifically mentioned in the law at all.

It was also held under this construction that in all States where the common law prevailed the instruments used in the release of mortgages and deeds of trust operating as mortgages were instruments that vested or revested title, and therefore were subject to taxation as conveyances. This was likewise so in States operating under the code system, if the instruments of release, in law, actually vested or revested title.

Believing this to be a too technical and strict construction of the paragraph in question, this office has finally concluded that it was not the intention of Congress to impose a taxation as conveyances on releases

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of mortgages and deeds of trust considered as mortgages, especially as such a ruling would, where the person borrowed money on real estate, subject the transaction to a triple taxation: first, on the mortgage; second, on the promissory notes secured thereby; third, on the release of the mortgage when the debt was paid, there being not only the third imposition of tax on the release, but also taxing it as a conveyance, which tax is double that of the tax imposed upon the mortgage which it releases.

You are therefore advised that releases of mortgages and deeds of trust considered as mortgages are now held to be exempt from taxation by this office, no matter in what form they are executed, whether with the solemnity of a deed, a certificate of satisfaction, or simply as an entry of satisfaction on the margin of the record book in which the released mortgage or deed of trust is recorded.

Where the release requires a notarial certificate, the certificate is subject to a tax of 10 cents, and the release is exempt from taxation as aforesaid.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. N. D. SPERRY, *House of Representatives, Washington, D. C.*

NEGOTIABLE INSTRUMENTS.

(*See* CHECKS, DRAFTS, NOTES, ETC.)

OIL REFINERIES.

(20002.)

Special excise tax—Refiners of petroleum.

As to what constitutes a refiner of oil, within the meaning of section 27 of the war-revenue act.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 3, 1898.

SIR: Your letter of the 31st ultimo is received, inclosing one to you from Deputy Collector Jenkins, in relation to the returns required to be made by persons, firms, companies, or corporations engaged in refining petroleum.

Deputy Jenkins asks for a ruling as to what constitutes a refiner of oil. He makes the following statement:

The term (refiner of oil) is applied more especially to institutions that furnish refined illuminating oils, for which purpose from 40 to 60 per cent of the crude petroleum is used. Other companies, and some of them the largest in existence, manufacture the heavy grades of crude petro-

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leum, and the remaining products of the illuminating refiners, which they purchase. These do not generally use the process of distillation, but by various methods—by the application of heat, chemicals, pressure, and skillful manipulation—furnish various products of great value and absolute purity. These latter institutions claim they do not come under the terms of the law. If they be excluded, the revenue obtained from refiners will be exceedingly small, but if they are included, the revenue will be an important item, as the gross receipts from some of the large lubricating works will run well into six figures.

Upon the question presented, you are advised that, in the opinion of this office, it is not material what the product is, or is called, or what method of refining be employed, provided petroleum be refined.

The fact that one concern extracts by distillation the more volatile constituents from petroleum, and that another refines crude petroleum in connection with a certain percentage of the product of the first concern and produces lubricating oils, vaseline, etc., does not seem to place such second concern in a different class from the first. They both appear to refine petroleum, and therefore are both, in the view of this office, from the light it now has, held to be subject to the excise tax imposed by section 27 of the war-revenue act upon "every person, firm, corporation, or company carrying on or doing the business of refining petroleum."

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES S. FRUIT, *Collector Internal Revenue, Pittsburg, Pa.*

(20023.)

Special excise tax—Gross receipts of oil refining and pipe line companies.

Returns of gross receipts under section 27, act of June 13, 1898, to be made for period ending June 30, and for each monthly period thereafter—Tax on such gross receipts accruing each month assessable under section 31 of that act.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 7, 1898.

SIR: In reply to your letter of the 1st instant, in reference to returns of gross receipts, required by the revenue act of June 13, 1898, to be made by oil refining and pipe line companies, you are informed—

(1) That as the provisions of the act relating to such companies went into effect June 14, 1898, a return for the period commencing on that date and ending June 30 should be made by each such company and for each monthly period thereafter.

(2) That while the act provides that each such company shall be subject to pay annually a special excise tax equivalent to one-quarter of 1 per cent on the gross amount of its receipts in excess of $250,000, it is evidently the intention of the act, in requiring a return of the amount of such gross receipts to be rendered monthly, that the tax accruing each month shall be definitely determined for each monthly

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period during the year. The tax, when so determined, is held to be assessable under the provisions of sections 31 of the act, and when assessed, to be due and payable as in the case of other assessed taxes.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. G. P. WALDORF, *Collector Tenth District, Toledo, Ohio.*

PAWNBROKERS.

(20439.)

Special tax—Pawnbroker.

A person using no tickets in his business, but making a pretense of buying articles which are brought to him, which he holds with a verbal agreement that the articles can be bought back again by the person selling them, upon the payment of a specified bonus, is liable to special tax as pawnbroker.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 15, 1898.

SIR: Your letter of the 2d instant relative to the liability of Mr. E. Harris, of Ironton, Ohio, is received.

In reply, you are advised that this office is of the opinion that Mr. Harris is liable to special tax as pawnbroker upon the statement made in your report, as follows:

He uses no checks or tickets in his business, but makes a pretense of buying articles which are brought to him, which he holds, with a verbal agreement that the articles can be bought back again by the person selling them, upon the payment of a specified bonus. Revenue Agent Payne himself personally tested his method of doing business. * * * Mr. Harris has been conducting a business in this manner from a period prior to July 1.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. M. A. HAYNES, *Revenue Agent, Cincinnati, Ohio.*

PERFUMERY, COSMETICS, ETC.

(*See also* DECISIONS 19564, p. 214; 19614, p. 243; 19702, p. 212; 19705, p. 246.)

(19563.)

Stamp tax—Perfumery, etc.

Stamp tax on samples of medicinal articles, perfumery, etc.—Such articles sold in bulk packages, how stamped.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 23, 1898.

SIR: Mr. Solon Palmer, of 374 and 376 Pearl street, New York, has propounded certain questions to this office. He has been referred

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to you, and you are requested to inform him that this office answers these questions as follows:

* * * * * * *

1. Samples of all articles mentioned in Schedule B, act of June 13, 1898, when removed for consumption by gratuitous distribution or otherwise, are liable to stamp tax, according to the retail price or value of such sample, on and after July 1, 1898.[1]

2. Perfumeries and cosmetics and other articles of a similar nature taxable under Schedule B are equally liable to the stamp tax when sold in what are termed bulk packages as when sold in retail packages, and the value of the stamp or stamps to be affixed must correspond with and be proportionate to the price charged for the smallest retail package with its contents.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. C. H. TREAT, *Collector Second District, New York, N. Y.*

PETROLEUM.

(*See* OIL REFINERIES.)

POWERS OF ATTORNEY.

(*See also* DECISIONS 19605, p. 143.)

(19621.)

Three per cent loan—Powers of attorney.

Subscriptions to the 3 per cent loan not taxable—Powers of attorney taxable except for collection of certain specified claims.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 2, 1898.

SIR: In answer to your inquiry of the 22d ultimo, addressed to the Secretary of the Treasury, you are advised that subscriptions to the 3 per cent loan are not taxable under the war-revenue law.

Powers of attorney require a 25-cent stamp to be affixed, except powers for the collection of pensions, bounty, etc., claims from the United States, or property lost in the military or naval service.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Messrs. HOLMES COMPANY, *New York, N. Y.*

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[1] This has been modified as to samples for gratuitous distribution. Such samples can now be removed free of tax by complying with certain regulations as to labels.

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(19700.)

Stamp tax—Powers of attorney, etc.

Proxies—Contracts—Receipts—Sales of certificates of stock—Powers of attorney, etc.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 15, 1898.

SIR: I reply as follows to the series of questions presented in your letter addressed to me on the 6th instant, viz:

(1) Proxies to vote at elections, if dated and fully executed prior to July 1, 1898, are not required to be stamped, even when the election is held subsequent to that date, if nothing is written in these proxies on and after that date.

(2) The paragraph on page 14 of the act of June 13, 1898, under the head of "Contract," imposing a stamp tax of 10 cents on brokers' notes or memorandums of sale of property of any description, does not apply to contracts of your company with consumers to supply them with gas.

(3) The receipts given to your consumers, of whom you require a deposit of $5 or $10 for your protection, do not come under the third paragraph of Schedule A of this act as either bank checks, drafts, certificates of deposit not drawing interest, or orders for the payment of money; and, therefore, they do not require the 2-cent stamp under that paragraph.[1]

(4) Upon sales of certificates of stock of your company made by a broker, where the transfer is by delivery of the certificate assigned in blank, he is required to affix the requisite stamp to his memorandum of such sale; and upon his assurance that this has been done there is no responsibility upon your company in the issuance of certificates in new names in lieu of old certificates canceled. If it is found thereafter that the brokers have failed to comply with the requirements of the law with reference to the stamping of their memorandums of sale the criminal liability is upon them. Where memorandums of sale of old certificates are duly stamped the new certificates issued in lieu of the canceled certificates thus sold do not require a stamp upon their issuance.

(5) Where the change of ownership is shown by the transfer of the certificate the stamp is required to be placed upon the certificate thus transferred, and not on the new certificates issued in lieu thereof.

(6) The power of attorney on the back of the certificate transferred requires a 25-cent stamp in addition to the stamp required on the transfer of the stock. Where there is a substitute attorney appointed, and this causes a second indorsement upon the certificate, it is held that this substitute power of attorney is required by the law to be stamped.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JOSEPH W. CLARKE,
Treasurer Consolidated Gas Company, Baltimore, Md.

[1] Certificates of deposit to secure payment of gas bills are now ruled to be taxable (see 20003, p. 86).

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PROMISSORY NOTES.

(*See* CHECKS, DRAFTS, NOTES, ETC.)

PROPRIETARY ARTICLES.

(*See also* MEDICINAL PREPARATIONS.)

(19527.)

Stamp tax—Proprietary articles.

Such articles in the hands of wholesale or retail dealers July 1, 1898, must be stamped when sold at retail.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 21, 1898.

SIR: Your letter of the 14th instant, inclosing letter which you have received from Messrs. Rheinstrom, Bettman, Johnson & Co., of Cincinnati, asking a construction of the clause in the new revenue law in regard to stamps on proprietary articles, has been received.

In reply I have the honor to state that on and after July 1, 1898, the maker or manufacturer of any of the articles named in Schedule B must affix the proper stamp thereto before the same are sold, sent out, removed, or delivered. As to stock in hands of dealers on the 1st day of July, 1898, the law provides as follows:

It shall be deemed a compliance with this act as to such articles on hand in the hands of wholesale or retail dealers as aforesaid who are not the manufacturers thereof to affix the proper adhesive tax stamp at the time the packet, box, bottle, pot, or phial, or other inclosure with its contents is sold at retail.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. WM. B. SHATTUC, *House of Representatives, Washington, D. C.*

(19557.)

Stamp tax—Insect powders.

Insect powders not taxable.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 22, 1898.

SIR: In reply to your letter of the 20th instant, asking if such articles as insect powders, bugine, insectine, killerine, and similar preparations, put up for the killing of insects, come under the head of proprietary

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articles, and whether they are subject to tax under the new revenue law, I would state that articles of the character mentioned are not understood by this office as coming under any provision of law taxing proprietary articles.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES S. FRUIT, *Collector Twenty-third District, Pittsburg, Pa.*

(19572.)

Stamp tax under Schedule B.

As to taxability of certain articles under Schedule B, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 25, 1898.

SIR: Your letter of the 21st instant, relative to the taxability of certain articles under Schedule B, act of June 13, 1898, has been received, and in reply I would advise you that the opinion of this office as to their taxability is as indicated on the following list:

1.	Rough on Rats (poison)	Not taxable.
2.	Royal Baking Powder	Do.
3.	Shoe dressing	Do.
4.	Remedies for horses, cattle, birds, etc	Taxable.
5.	Bird bitters for canary birds	Do.
6.	Van Hagen's Junket Tablets for thickening milks to be used as a dessert	Not taxable.
7.	Cuticura Soap	Taxable.
8.	Packer's Tar Soap	Do.[1]
9.	Soaps, plain, without wrappers or directions	Not taxable.
10.	Infant foods, proprietary. Food preparations are not taxable.	

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. HENRY L. HERSHEY, *Collector Ninth District, Lancaster, Pa.*

(19603.)

Stamping of taxable articles by retail dealers.

Articles taxable under Schedule B in the hands of retail dealers July 1, 1898, must, when sold, be stamped according to the retail price as fixed by the manufacturer.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 29, 1898.

SIR: A. B. Crooks, druggist, of Warren and Searing streets, Newark, has written to this office, under date of June 21, 1898, asking its opinion

[1] If any claim is made for it as a medicinal article or a cosmetic.

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in reference to the stamping of patent medicines under the new law, especially as to such articles as are on hand on the 1st day of July, 1898. He asks if they must be stamped at the marked or selling price, and instances Fellow's Syrup, the printed retail price of which is $1.50, and which he sells at 95 cents.

* * * You will please inform him that these articles when sold must be stamped by him according to the regular retail price as fixed by the manufacturer, which in the case mentioned is $1.50, and would require a stamp of 3¾ cents.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. WM. D. RUTAN, *Collector Fifth District, Newark, N. J.*

(19614.)

Stamp tax—Chemical preparations, etc.

Stamping of chemical preparations and prepared drugs—Malt-extract preparations—Food preparations—Bulk packages—Retailer selling drugs at "cut prices," how he must stamp such articles.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 1, 1898.

GENTLEMEN: Your letter of the 21st ultimo, asking for an early answer to certain questions relative to the stamping of articles under Schedule B of the act of June 13, 1898, came duly to hand. * * * You inquire—

(1) "Does the law require the stamping of chemical preparations and prepared drugs (some of which are patented—*e. g.*, phenacetin, sulphonal, antipirine, etc.) which have no fixed or retail price, and which are not sold in prepared packages by the retailers?"

In reply to this, I would say that your question is too general for a definite answer, but the articles mentioned by you have all been held to be taxable by this office.

(2) "Does the law require the stamping of malt-extract preparations?"

All malt-extract preparations, such as nutrine, anchortonique, etc., are held liable to this stamp tax. The fact that the manufacturer pays $2 tax on each barrel of lager beer from which these extracts are manufactured has no bearing on the question of taxation. It is known that articles which have once paid revenue tax enter largely into the composition of patent medicines—distilled spirits, for instance—but it has never been held for that reason that these articles should be exempted from stamp tax.

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(3) "Does the law require the stamping of food preparations that have medicinal qualities, such as Mellin's, Nestle's, and Eskay's food, and other infants' foods?"

It has been ruled generally that pure food preparations are not liable to stamp tax, but if any one of these articles mentioned by you is advertised as having medicinal qualities there might be a question in regard to its taxability.

(4) "How is the stamp tax to be administered on bulk goods which have no fixed or advertised retail price; for example, on perfumery, which the manufacturer sells by the pound and the retailer sells at whatever price he can get?"

The ruling of this office in regard to bulk packages is as follows:

All medicinal preparations subject to the stamp tax, and all perfumeries and cosmetic articles, are equally liable to the stamp tax when sold in what are termed bulk packages as when sold in retail packages, and the value of the stamp or stamps to be affixed must correspond with the price charged for a single package with its contents. This decision specially applies to imported bay rum, cologne waters, vaseline, and petroleum, which are held to be cosmetic articles, and to bitters claimed to be medicinal, when sold in kegs, half barrels, barrels, etc.

Dealers may retail directly from such bulk packages which have been properly stamped by the manufacturer or importer, drawing from the same in quantities to suit their customers, without any additional stamping, but the stamps attached to such bulk packages will only protect the original articles contained therein, and only protect that so long as it is kept within such stamped package. If bulk packages are broken and their contents drawn off into smaller vessels, thereby ceasing to be identified with the stamped package in which they were put up by the manufacturer or sold by the importer, such contents become liable to seizure if stamps are not affixed to the articles thus sold or offered or exposed for sale.

(5) "When the law becomes operative, how must the retailer stamp his goods which are selling at cut prices? To an article the advertising price of which is $1, but which the druggist sells for 70 cents, what stamp must be affixed?

The retailer must stamp the articles according to the advertised retail price which is fixed by the manufacturer. An article the advertised price of which is $1, and which the druggist sells for 70 cents, must have affixed 2½ cents in stamps.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

PHARMACEUTICAL ERA, *New York, N. Y.*

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(19622.)

Stamp tax—Mineral waters.

Taxability of artificial mineral waters.

TREASURY DEPARMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 5, 1898.

SIR: Harris D. Colt, vice-president of the Hygeia Distilled Water Company, of 349 West Twelfth street, New York City, has written to this office, under date of June 24, asking in regard to the taxability of mineral waters under Schedule B, act of June 13, 1898, which he claims are used purely as a beverage, but which at times have been advertised as beneficial for gout, rheumatism, etc. He states that they manufacture pure distilled water, and make therefrom lithia water, both still and carbonated, by adding 22½ grains of pure lithia bicarbonate to the United States standard gallon. * * * You will please inform him that this office holds waters manufactured and advertised in the manner he describes as taxable under the first paragraph of Schedule B, and the stamp must be affixed to each bottle or siphon in accordance with the retail price or value.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. C. H. TREAT, *Collector Second District, New York, N. Y.*

(19694.)

Packing and stamping of taxable articles.

Articles taxable under Schedule B, retailing at less price than 5 cents—How they may be packed and stamped.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 14, 1898.

SIR: In response to your letter of the 11th instant, asking for a reversal of the ruling of this office made on the 6th instant relative to the taxability of your preparation called "Sweet Scent," I would say that this office declines to reverse its decision holding such article liable to stamp tax as an article similar to aromatic cachous, mentioned in Schedule B, but it may be packed and stamped in conformity with the following ruling:

Five cents being the lowest retail price mentioned in Schedule B, taxable articles retailing for a less sum may be packed together under one wrapper, band, or other inclosure when the retail price of said packages shall not in the aggregate exceed 5 cents, and a stamp for one-eighth cent shall be affixed on the outside band or wrapper, or other

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inclosure, in such a manner that the stamp will be wholly destroyed in opening the same.

In such cases each subpackage shall have printed thereon the words, "Sold from a duly stamped package."

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. E. J. HOADLEY, *Hartford, Conn.*

(19705.)

Stamps to be affixed according to retail price.

Manufacturers to determine retail price in stamping articles taxable under Schedule B—Certain articles held to be nontaxable, and others to require a stamp.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 16, 1898.

SIR: The Durand & Casper Company, of Lake, Union, and Eagle streets, Chicago, have written to this office under date of July 6, 1898, asking—

(1) How they are to fix the retail price of bulk packages of perfumery sold by them to retail dealers.

(2) For rulings as to the taxability of certain articles of which they inclose labels.

* * * You will please advise them—

(1) That the law has devolved upon manufacturers and importers the duty of fixing the retail price of articles sold by them. Although they may not know the price at which every retailer will sell the article sold to him by them, it is believed to be within the competency of every manufacturer and importer to fix the retail price and stamp his goods accordingly. If this is done in good faith, no objection will be made if, at various times and in different places, the goods should be retailed at a smaller or larger price than is denoted by the stamps on the package.

(2) In regard to the taxability of articles the labels and cartons of which were submitted by them, I would say that Liberty Brand of Root Beer and Liberty Brand of Wild Cherry Phosphate, as they appear to be recommended on the carton as specifics for the prevention of certain diseases to which the human body is subject, they will be held by this office as medicinal preparations and will require a stamp.

The following preparations are not taxable:

Lemon extract for flavoring ice cream, etc.
Vanilla extract for flavoring ice cream, etc.
Extract of white vanilla.
Oil of lemon.
Essence of rose, for flavoring cakes, candy, etc.
Glycerine.
Spirits of turpentine.
Sperm sewing-machine oil.

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The following are held to be taxable as medicinal preparations:

Liberty witch-hazel, or hamamelis.
Liberty brand of jamaica ginger, which is also trade-marked.
Spirits of camphor.[1]
Cold-pressed castor oil.[1]

In regard to the imported bay rum upon which duty has previously been paid, you will please inform them that such bay rum must be stamped in accordance with the terms of Schedule B, act of June 13, 1898, before it is withdrawn from their warehouses, whether in small bottles or in bulk packages.

The same rule applies to the mixture of imported bay rum and witch-hazel.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. E. COYNE, *Collector First District, Chicago, Ill.*

(19824.)

Sheep dip.

Although the preparation may be used as a remedy for sheep scab after it has been developed, its primary use is as an insecticide to kill insects and parasites before the sheep become diseased.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 4, 1898.

GENTLEMEN: I have to acknowledge receipt of your letter of the 1st instant, raising consideration of the question whether sheep dip, a preparation used in the raising of sheep, is taxable as a remedy for animals under Schedule B of the act of June 13, 1898, or is to be classed as an insecticide.

The voluminous evidence submitted has been carefully examined. This office has heretofore ruled that as sheep dip was recommended as a cure for scab, a disease to which sheep are subject, that it must be stamped under the law.

This office has been much impressed with the statement in the letter of Hon. Lee Mantle, United States Senator, submitted by you, which is as follows:

There can, of course, be no question but that scab is a disease of sheep. At the same time it must be borne in mind that the use of this dip is absolutely necessary to the growing of wool; in fact, sheep can not be profitably grown where they are kept in large flocks or herds without its constant and regular use. It has become, in fact, a part of the business of wool growing, while its use is made compulsory by quarantine regulations at all the public stock yards in the country.

It was in recognition of these facts that Congress exempted sheep dip from duty under the provisions of the tariff law enacted last year.

[1] Not taxable; ruling has been revoked.

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* * * Further than this, I may add that in my opinion it was not the intention of Congress that sheep dip should be taxed under the provisions of the war-revenue measure.

Senators W. A. Harris and F. M. Cockrell also give evidence of the same nature.

In view of the above testimony, I have concluded to revoke my decision heretofore given in regard to the taxability of this manufacture, and to rule that although the preparation may be used as a remedy for sheep scab after it has been developed, its primary use is as an insecticide to kill insects and parasites before the sheep become diseased, and therefore it is not taxable under the internal-revenue laws.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Messrs. BRITTON & GRAY, *Washington, D. C.*

(20095.)

Stamp tax—Double chloride of gold.

Tax imposed on Leslie E. Keeley's "Double chloride of gold remedies" as medicinal proprietary preparations.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 26, 1898.

SIR: This office is in receipt of a letter, under date of September 17, 1898, from Mr. Thomas E. Barry, counsel for the Leslie E. Keeley Company, Dwight, Ill., submitting a brief relative to the manufacture and sale of the products known as the Leslie E. Keeley "Double chloride of gold remedies," and also giving certain reasons why these products should not be considered taxable when removed from the factory for consumption at his private sanitarium. They acknowledge that these remedies are taxable when sold to various institutes throughout the country, but claim that those furnished to the institute at Dwight, Ill., which is owned by the proprietor of the remedies, are not taxable on the ground that they are never sold, but are used in the treatment of patients at his own private sanitarium.

The contention that these remedies are compounded for and administered to patients under treatment at the Dwight Institute has no bearing upon the taxability of them unless it could be shown that the remedies are compounded for and administered to a particular person under treatment. These remedies are manufactured in large quantities of different strength, boxed, and held for future orders. This would indicate that they are not compounded for a particular person, so that the remedies would come under the exemption contained in the proviso of section 20, but are compounded as a specific for a disease (Keeley) affecting a certain class.

Counsel claims exemption for the remedies used at this institute on the same grounds that medicines used in hospitals are exempt.

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Remedies used in hospitals are not exempt, but the two are entirely dissimilar. In the hospitals medicines are compounded upon the written prescription of the visiting or resident physician, while at the Keeley Institute stock proprietary remedies are used, the same remedies for each class of cases.

One of the remedies, which is administered by hypodermic injection, is placed in a common tray. The patients, marching in a line, are given, by injecting beneath the skin of the arm, a syringeful of the medicine from the common tray. A proprietor of any patent medicine could as properly claim exemption for his product as does counsel for the Keeley remedies.

All articles taxable under the internal-revenue laws are considered by this office as being "removed for *sale*," when the person removing them makes use of them for the purpose of receiving any pecuniary compensation whatever.

After a careful consideration of these products, this office is of the opinion that the Keeley remedies are taxable, and it is so held; and they must be properly stamped before removal from the laboratory, whether intended for sale directly to the patients, for the use of other similar institutes in treating their patients, or for the Keeley Institute at Dwight; and the stamp tax must be computed upon the retail price of a single bottle. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. E. COYNE, *Collector First District, Chicago, Ill.*

(20324.)

Retail price of goods.

Bad faith in fixing the retail price of articles by the manufacturer.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 15, 1898.

SIR: Your letter under date of November 7, 1898, was received. You state that Messrs. Shonenberg & Noble, New York City, are manufacturing a celery tonic and stamping it at the rate of one-quarter of a cent, but that the retail price of the preparation varies from 50 to 75 cents. You submit that it is improperly stamped.

This office holds that the manufacturer is the proper person to fix the retail price or value of his goods, and if the article is stamped at the rate of one-quarter of a cent it is prima facie evidence that the retail price or value exceeds 5 and not more than 10 cents; and if the article is occasionally sold at an advance of the price indicated by the tax stamps, that can not be considered sufficient evidence upon which to base a charge of bad faith on the part of the manufacturer. How-

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ever, if you find from the retail price commonly and usually charged by retail dealers for the article that the tax stamp affixed does not indicate the true retail price or value, that will be evidence of bad faith on the part of the manufacturer, and the goods will be liable to seizure. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. J. H. BINGHAM,
Collector Internal Revenue, Birmingham, Ala.

RAILROADS.

(*See also* DECISIONS 19794, p. 261; 20240, p. 47.)

(20170.)

Stamp tax—Rebate checks.

The ruling that rebate checks issued by conductors, being the excess on fare collected on trains, which are redeemable by the company's agent on presentation, are liable to stamp tax, has been revoked, in view of the opinion of the Attorney-General. Taxes which have been paid erroneously, according to this decision, can be refunded upon proper application being made therefor.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 12, 1898.

SIR: Referring to your letter of the 16th ultimo, relative to rebate tax issued by conductors, being the excess of fare collected on trains, which are redeemable by the company's agent on presentation, you are informed that the ruling by this office that such checks are liable to the stamp tax has been revoked, in view of the opinion of the Attorney-General, dated the 10th instant. This opinion is appended for the guidance of collectors and other officers of internal revenue.

Taxes which have been paid erroneously, according to this decision, can be refunded upon proper application being made therefor.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES D. GILL, *Collector Third District, Boston, Mass.*

[Opinion of Attorney-General.]

DEPARTMENT OF JUSTICE,
Washington, D. C., October 10, 1898.

The SECRETARY OF THE TREASURY.

SIR: I have the honor to acknowledge receipt of yours of the 4th instant, inclosing a copy of a letter of the Commissioner of Internal

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Revenue, dated October 1, 1898, in which you request my opinion as to whether or not what are called "rebate checks," issued by the railroad companies, are required to be stamped under the provisions of the war revenue act as orders for the payment of money.

Rebate checks, as they are called, are used by the railroad companies in cases where passengers without tickets purchased at regular stations pay fare to conductors aboard the train. The purpose of these checks, as it appears, is twofold: First, to induce passengers to buy tickets before going aboard passenger trains, and thus avoid the inconvenience of having refunded an extra charge, and, in the second place, to furnish evidence to the railroad companies that cash fares have been paid to conductors, so as to be a check upon their reports. The plan is to require the passenger to pay more than the price of a ticket purchased at the station, and the conductor to whom it is paid gives to the passenger what is called a rebate check, which is redeemable at a ticket office of the railroad company for the amount paid by the passenger over and above the regular fare.

These checks, I advise you, are not orders for the payment of money as comtemplated by the war-revenue act. They are not drawn by one person or company upon another. They are more in the nature of transactions of a railroad company with itself, in which the passengers are used as instruments to carry them out. The company gives to the passenger a check by which the same company agrees to refund an amount of money which the passenger has paid, provided the check is presented at a certain place within a specified time. Such checks, given under these circumstances, do not, in my opinion, require a stamp under the provision of the act referred to.

Respectfully, yours. JAS. E. BOYD,
Assistant Attorney-General.

Approved:
JOHN K. RICHARDS, *Acting Attorney-General.*

RECEIPTS.

(*See also* BILLS OF LADING; WAREHOUSE RECEIPTS; *Baggage*—Decision 20169, p. 44. *Bills of lading, etc.*—Decisions 19629, p. 31; 19965, p. 34; 19996, p. 41; 20194, p. 46. *Depositors'*—Decision 20192, p. 104. *In lieu of bank checks*—Decisions 20192, p. 104; 20231, p. 106. *Ordinary*—Decision 19700, p. 240. *Setting forth terms of a lease*—Decision 19684, p. 185. *Shipping*—Decision 19571, p. 18. *Warehouse*—Decisions 19615, p. 123; 20118, p. 102.)

(19604.)

Stamp tax—Wharf receipt.

Wharf receipt given to shipper in exchange for which bill of lading, bearing stamp, is issued does not require stamp.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 29, 1898.

SIR: In reply to your letter of the 28th instant, inclosing a letter addressed to you on the 27th instant by Mr. E. Hawley, assistant gen-

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eral traffic manager of the Southern Pacific Company, Morgan Steamship Line, you will please inform him, in reply to the first inquiry which he makes, that a wharf receipt given to a shipper by their receiving department in exchange for which a bill of lading is issued at their office, bearing a 1-cent stamp, does not, as this office is at present advised, require also a 1-cent stamp. The stamp on the bill of lading for such shipment appears to meet all the requirements of the law in that regard.

To his second inquiry, you will please inform him that the 10-cent stamp affixed to an export bill of lading, and duly canceled, is all that is required therefor by the seventh subdivision of Schedule A of the act of June 13, 1898, and that duplicates and triplicates thereof, made and delivered to persons in interest, are not required by the law to be stamped.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. D. A. CHAMBERS, *Washington, D. C.*

(19655.)

Stamp tax—Receipts.

No stamp tax is required on receipts.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 7, 1898.

SIR: In reply to your letter of inquiry dated the 25th ultimo you are hereby advised that an instrument such as that which you submit, reading "Received of the Manistee County Savings Bank, one hundred dollars," not being in form either a "bank check, draft, or certificate of deposit not drawing interest, or order for the payment of any sum of money," is not subject to the stamp tax of 2 cents imposed by the third paragraph of Schedule A of the act of June 13, 1898.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. S. M. LEMON,
Collector Fourth District, Grand Rapids, Mich.

SALES, AGREEMENTS OF, ETC.

(*See* AGREEMENTS OF SALE, ETC.)

SHOWS AND EXHIBITIONS.

(*See* EXHIBITIONS AND SHOWS.)

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SNUFF.

(*See* TOBACCO, CIGARS, AND SNUFF.)

STAMPS.

(*See* INTERNAL-REVENUE STAMPS.)

STEAMSHIP PASSAGE TICKETS.

(19964.)

Stamp tax—Passenger tickets.

Passenger tickets to Porto Rico subject to taxation.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 24, 1898.

SIR: I am in receipt of your letter of August 18, 1898, in which you inclose a letter from A. Emilius Outerbridge & Co., 39 Broadway, New York, bearing date of August 18, 1898. * * * A. E. Outerbridge & Co. state their steamboat sails on the 24th instant for the West Indies, calling at Ponce, Porto Rico, to land passengers only, and as Ponce is now under the American flag, they ask will it be necessary to attach war-tax stamps to tickets for passengers going to Ponce?

You will inform them that the military occupation of this island by the United States Army and the signing of the protocol entered into by this Government and the Government of Spain through the French ambassador have not created such a condition as to render this island a United States possession to the extent of exempting these tickets from taxation. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

(20004.)

Stamp tax—Passage tickets.

Revocation of ruling that tickets issued in Canada for passage on a vessel sailing from a United States port are not subject to stamp tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 3, 1898.

To revenue agents at Boston, New York, Philadelphia, Baltimore, New Orleans, and San Francisco:

Inclosed herein please find copy of a letter to Mr. R. M. Melville, general manager of the Toronto Steamship Agency, under date of the 1st

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instant, in regard to the tax on passage tickets by any vessel from a port in the United States to a foreign port, and in correction of a ruling in regard to the same as published under date of July 13, 1898.

You will notice by this letter that the ruling mentioned in regard to its application to passage tickets issued in Canada has been abandoned and abrogated by this office. Of course this decision as to the tax on passage tickets applies to all which may be presented for passage on any vessel from a port in the United States to a foreign port without regard to the place where they may have been purchased, with exception of the exemption contained in the last paragraph of Schedule A, act of June 13, 1898, relating to ports in British North America.

It is possible that tickets may be presented in your city at the vessels sailing by various lines to foreign ports upon which the tax has not been paid. Mr. Melville has sent several communications to this office upon the subject, and it is reasonable to suppose that many tickets have been issued up to the present time upon which no tax has been paid. In this class the touring tickets sold abroad, as well as tickets issued in any country on this continent for use in passing through this country and departing therefrom by vessels from one of our ports, may be included.

You will therefore take steps to notify the different companies whose vessels leave for foreign ports of the fact that tax must be paid upon such tickets, and that if tickets are presented upon which the tax has not been paid by the proper stamps being affixed thereto they must require the parties presenting them to stamp them properly before they are received for passage. It is provided by section 6 of the act of June 13, 1898, that the tax imposed upon such a thing as a passage ticket shall be paid by any person or persons who shall make, sign, or issue the same, or for whose use or benefit the same shall be made, signed, or issued; and section 7 declares a penalty of not more than $100 if any person or persons shall make, sign, or issue, or cause to be made, signed, or issued, such a paper without the same being duly stamped. It is held that any person who accepts a passage ticket which is not properly stamped has caused the same to be issued to himself, and is therefore liable for the tax imposed thereon.

N. B. SCOTT, *Commissioner.*

[Inclosure.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 1, 1898.

SIR: Your letter of August 6, 1898, has been received. You acknowledge the receipt of a letter from this office dated August 3, and also of an accompanying Circular No. 503, issued by this office under date of July 13, 1898.

In reply to your inquiry under date of July 28, 1898, you were informed on August 3 that the rate of taxation imposed by the act of June 13, 1898, is due upon all passage tickets by vessels from ports in the United States to a foreign port, and must be paid by stamps on the tickets without regard to the place where the tickets may

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have been sold, and that when any ticket for passage from a port in the United States is presented to a transportation company it will be the duty of the company to see that the same is properly stamped before accepting it, no matter whether the ticket was purchased at the port where the company's vessel starts from or if it was a coupon presented in the regular course of travel on a tourist ticket around the world.

You now call my attention to the fact that this ruling and the ruling No. 30 in said Circular No. 503 are not consistent, and you ask me how they are to be harmonized and understood.

Ruling No. 30 in that circular states that "tickets issued in Canada for passage on a vessel sailing from a United States port are not subject to stamp tax." This ruling was made by an inadvertence just before the operations of the new law went into effect, and is not in accordance with the law imposing a tax upon passage tickets. It is not now authorized by this office, but instead thereof the instructions contained in the letter to you dated August 3 must be followed.

The act of June 13, 1898, imposes a tax upon passage tickets "by any vessel from a port in the United States to a foreign port," the amount of tax varying in accordance with the cost of the ticket. It is the ticket which is taxed, and not the person by whom, or the place at which, such ticket may be sold or issued, and you will readily see that if tickets issued in the Dominion of Canada for passage on a "vessel from a port in the United States to a foreign port" were to be exempted from taxation, a large part of the tax on passage tickets which should be collected would be evaded, as, under the scalper's methods ordinarily in use, a supply of passage tickets abroad from ports in this country would be furnished to the principal offices for sale of such tickets from points in the Dominion in connection with railroad trips, which would practically nullify the act in relation thereto. You will, therefore, consider the ruling in said circular, in relation to tickets issued in Canada for passage on a vessel sailing from a United States port, as having been abandoned and abrogated by this office, and that the ruling as contained in my letter of August 3 will remain in force and must be complied with.

You will consider this an answer also to your communication of the 24th ultimo, again calling my attention to the matter.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. R. M. MELVILLE, *Toronto General Steamship Agency, Toronto, Canada.*

(20196.)

Stamp tax—Exemption of foreign diplomatic corps.

Members of foreign diplomatic corps are not required to pay tax on passage tickets by vessel from a port in the United States to a foreign port.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 13, 1898.

SIR: At the verbal request of Commandant Clement de Grandprey, military attaché of your embassy, I have the honor to advise you that this office holds, pursuant to former rulings respecting the exemption of the foreign diplomatic corps from taxation under the internal-revenue laws, that members of said corps are not required to pay tax on passage tickets by any vessel from a port in the United States to a foreign port,

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and that such tickets, when purchased and used by any member of the foreign diplomatic corps, may be sold and used without any stamp being required on the same.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JULES CAMBON,
Ambassador E. and P. of France, Washington, D. C.

STOCKS.

(*See also* DECISIONS 19700, p. 240; 19710, p. 80; 19998, p. 62; 20091, p. 64; 20093, p. 66; 20157, p. 68.)

(19607.)

Stamp tax—Certificates of stock.

Sales and transfers of certificates of stock.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 29, 1898.

SIR: On the question of the construction of that part of Schedule A of the act of June 13, 1898, imposing stamp tax "on each original issue, whether on organization or reorganization, of certificates of stock," it is held that the meaning of the words "original issue," as herein used, is limited and controlled by the words "whether on organization or reorganization;" and that therefore the only certificates of stock on which the tax of 5 cents "on each hundred dollars of face value or fraction thereof" is imposed by this act are those certificates issued on or after July 1, 1898, on the organization or reorganization of a company.

In the case of a corporation having, for instance, an authorized capital stock of $1,000,000, of which it has issued only $500,000 prior to July 1, 1898, and on or after that date finds it necessary to make one or more additional issues under the authority possessed by it, each additional issue thus made is an "original issue" within the terms and meaning of the statute here under consideration, and the certificates of such issue are subject to the stamp tax.

Where any original certificate issued is presented by the holder to the company or corporation for the issuance of another certificate or certificates in lieu thereof, the certificate or certificates thereupon issued to take the place of the original certificate could not, under the language and limitation of the statute above cited, require any stamp as long as there is no sale, nor agreement to sell, nor memorandum of sale, nor transfer of any of these certificates issued in lieu of the original.

In case of sale where the evidence of transfer is shown only by the books of the company, a tax of 2 cents is required to be paid on each hundred dollars of face value or fraction thereof; and the stamp representing this is required to be placed upon such books.

Where the change of ownership is by transfer certificate—that is to

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say, the executed authority to transfer is contained on the back of the stock certificate which is to be transferred—the stamp must be placed on the transfer certificate—that is to say, upon the surrendered certificate containing the transfer.

In cases of agreements to sell, or where the transfer is by delivery of the certificate assigned in blank, there must be executed a memorandum thereof, to which the stamp is required be affixed.

Under the ruling herein stated, in a case (that may be supposed) of a man who is the owner of a certificate for 100 shares of stock, and wishes to sell 10 of these to another person, the result being that one certificate would be issued for the 10 shares sold, and also an additional certificate for the 90 shares still remaining in him, the certificate for 90 shares issued (with the certificate for 10 shares sold) in lieu thereof does not require any stamp; and the certificate for the 10 shares does not require a stamp representing the tax of 5 cents on each hundred dollars of face value or fraction thereof, as it is not an original issue. The only stamp required with reference to these certificates is a stamp on the transfer of the 10 shares sold, representing payment of the tax of 2 cents on each $100 of face value, or fraction thereof.

In another case (stated for illustration) where a man holds several certificates for shares of stock aggregating 100 shares, and, for his convenience, calls upon the company to issue to him in lieu thereof one certificate for 100 shares, there being no sale, nor agreement to sell, nor memorandum of sale, or delivery or transfer of this new certificate, the statute does not require the affixing of any stamp thereto.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. P. A. MCCLAIN, *Collector First District, Philadelphia, Pa.*

(19888.)

Stamp tax—Transfers of shares of stock.

Transfers of shares or certificates of stock—How stamps are to be attached—Stamp tax to be reckoned on face value of certificate—Illustration.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 12, 1898.

SIR: Mr. Goulding Marr, broker, Nashville, Tenn., has written to this office under date of the 4th instant, inclosing a copy of certain requirements regarding the stamp act, stating that local bankers have decided, for their own convenience, to have some copies of the same printed, and before doing so they submit them to the proper authorities for approval.

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The paper submitted is inclosed, and you are requested to return the same to Mr. Marr. The requirements are copied almost entirely from Circular No. 503, and demand no change except the last item, which is in the following language:

On all transfers of shares or certificates of stock the stamps must be attached to the new certificates.

In regard to this matter I now state that the intention of the law was to tax the original issue of certificates of stock, and to impose a tax upon every change of ownership. When stock is transferred for which no certificate has been issued, and the evidence of transfer is shown only by the books of the company, the stamps shall be placed on such books. Where the change of ownership is by the transfer of a certificate, and the certificate contains a blank form of assignment on the back, which is filled in by the insertion of the name of the person to whom the stock is transferred, the stamp shall be placed upon the certificate.

In case of an agreement to sell, or where the transfer is by the delivery of the certificate, signed in blank, the name of the transferee or vendee to be filled in afterwards, there shall be made and delivered by the seller to the buyer a bill or memorandum of sale, to which the stamp should be affixed.

Where certificates of stock are sold, and the tax has been paid and stamps affixed in the manner stated, when the transfer is made on the books of the company from the name of the party selling to the name of the purchaser, no stamps are required on the new certificates issued in lieu of those canceled.

Mr. Marr further states that ruling No. 8 in Circular No. 503 is not clear, and wishes a hypothetical case given, so that the matter can be easily understood. The ruling referred to is as follows:

Where one certificate represents several shares of stock (however large the number of shares), on transfer of this certificate the stamp tax is to be reckoned on its face value, and not on the face value of each separate share of stock which it represents.

As an illustration: On a transfer of one certificate of stock, representing 500 shares, $5 par value, the face value of the certificate being $2,500, the stamp required is 50 cents. Again, where stock is sold of the par value of $100, and upon which it appears that only $25 have been paid, the tax is to be reckoned upon the face value of $100, and not upon $25.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. D. A. NUNN, *Collector Fifth District, Nashville, Tenn.*

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(20070.)

Stamp tax—Transfers of stock.

Transfers of stock from guardian to ward subject to taxation.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 19, 1898.

SIR: This office is in receipt of your letter of July 21, 1898, in which you state that you have in your care some certificates of national bank and building and loan association stock belonging to your brother, who has recently become of age. The certificates, although representing his property, are in the name of his mother as guardian, and he would like them in his own name. You state further that you understand that in a case like this, where there is no transfer of ownership from one person to another, there are no revenue stamps required, and you ask to be advised if you are correct in this understanding.

In reply, you are advised that this office holds that a transfer of stock from a guardian to a ward is subject to taxation, and that it is such a change of ownership as requires the imposition of a tax.

Guardians of all descriptions are treated by courts as trustees. It is a fiduciary relationship in which the guardian does not have the legal and equitable title to the stock. He holds it in his name for the ward. He does not have absolute control of the stock; he is subject to the order and supervision of the court.

In most cases the guardian is bonded to secure his faithful performance of the trust, and to state there is no change of ownership when the stock is transferred from the guardian to the ward would be to make a statement in which this office can not concur.

Although the guardian's possession of the property of the ward is not such as gives him a personal interest, it is a possession for the purposes of agency. (See Parsons on Contracts, vol. 1, chap. 9, sec. 2.)

This office looks upon this relationship in the light of a trustee holding property in trust until the happening of some event.

In this case the ward has become of age and can claim his property and desires to have this stock in his own name. This office holds it to be such a transfer of stock as is subject to taxation.

In regard to stock of a building and loan association, you are informed that, if this stock is stock of a cooperative building and loan association whose capital stock does not exceed $10,000, and it is such an association that makes loans only to its shareholders, the law specially exempts stock of this kind in such associations from taxation. Of course, if it is such stock, and it is in the name of the guardian, the transfer to the ward would not be subject to taxation, as the stock itself would be exempt.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. J. CLYMER, *Van Wert, Ohio.*

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SUGAR REFINING COMPANIES

(19831.)

Special tax—Sugar refineries.

Provisions of section 27, act of June 13, 1898, apply to sugar refineries and not to sugar factories.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 4, 1898.

SIR: I received your letter of the 28th ultimo, in regard to section 27 of the act of June 13, 1898, imposing a tax on the gross annual receipts, in excess of $250,000, of persons, firms, corporations, and companies carrying on or doing the business of refining sugar.

You state that you expect to start your beet-sugar factory at Chino, Cal., this month, and as you are sugar producers and not sugar refiners, and do not purchase raw sugars for the purpose of refining them, in contrast with other refiners of raw sugar, but make sugar directly from beets by continuous process, and sell these sugars directly to the consumers, you do not think that you come within the provisions of the law referred to.

It is the opinion of this office that your view is correct, and that the provisions of section 27 referred to do not apply to beet-sugar factories operated as, you state, your factory is, where sugar is made directly from beets, and there is no refining except in the process of manufacture. I think the law intended to tax receipts of sugar refineries and not sugar factories.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. HENRY T. OXNARD,
President Oxnard Beet Sugar Company, Grand Island, Nebr.

(20201.)

Returns of gross receipts by sugar refining companies.

Sugar refining companies, refining sugar in one collection district and having their principal (home) offices in another collection district, to make returns of their gross receipts in each such districts, respectively.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 17, 1898.

GENTLEMEN: I am in receipt of your letter of the 12th instant, requesting that you be advised as to the collection district in which returns should be filed by your company of its gross receipts.

You state that your company is incorporated under the laws of New Jersey and has its principal office in that State, at Jersey City, while the entire refining plant of the company is in Yonkers, N. Y., where the principal office in that State is located.

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In reply, you are informed that in such cases a return should be made in each collection district in which the company, having a principal office, transacts its business; and that where the company's receipts derived from such business and covered by the returns so made are also included in the return made in the district in which the principal (home) office is located, the receipts so included should be so specified in order that the same may be verified and the proper allowance therefor made.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

NATIONAL SUGAR REFINING COMPANY, *Yonkers, N. Y.*

TELEGRAPHIC MESSAGES.

(19704.)

Stamp tax—Telegraphic dispatches.

Exemption in favor of dispatches sent by State officers in discharge of their official duties.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 16, 1898.

SIR: Your letter of the 11th instant, in regard to telegraphic dispatches signed by State officers, has been received.

Section 17 of the act of June 13, 1898, provides as follows:

It is the intent hereby to exempt from the stamp taxes imposed by this act such State, county, town, or other municipal corporations in the exercise only of functions strictly belonging to them in their ordinary governmental, taxing, or municipal capacity.

If the sender of a dispatch is in the discharge of a duty in carrying out governmental functions required by law in operating the machinery of the government, the exemption applies; but if the act is simply that which the officer does individually in the interest of a private person or outside party to serve such private person or outside party individually, then the stamp-tax law applies.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

MR. WILLIAM A. KETCHAM, *Attorney-General, Indianapolis, Ind.*

(19794.)

Stamp tax—Railroad telegraphic messages.

Telegraphic messages of railroad companies concerning the affairs and service of the companies, when exempt.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 28, 1898.

SIR: I have your letter of the 22d instant, stating that Mr. L. S. Thorne, vice-president and general manager of the Texas and Pacific

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Railway Company, asks you to obtain a ruling from this office as to whether telegraphic communications, as described by him, and the conditions under which sent, are exempt from stamp tax under the war-revenue law or otherwise, as follows:

Telegrams sent over railway wires without any tolls being collected, relating strictly to railway business, particularly messages sent by one company to a connecting line company by their own employees, over their own telegraphic lines owned by the respective companies, referring particularly to the handling of trains, delivery of freight, or other such business in which both companies are interested, which messages are handled over the railway wires of the two companies, neither company making charge against the other company for telegrams so sent.

Reference is made particularly to routine business, such as telegraphic notices from one dispatcher's office to the dispatcher's office of a connecting line, as to the arrival of United States mail and passenger trains, special trains of live stock, and perishable freight; the movement of special trains, including trains of Government troops and supplies, etc., which notices it is necessary for railway companies to give and receive in order to properly handle such business.

In reply, I have to say that you are no doubt aware that, under date of the 14th instant, this office ruled, in a letter to the Western Union Telegraph Company, that all messages of railroad officials and employees sent from stations on their respective railroads to places beyond the same must be stamped. It seems to be apparent that this ruling does not provide for the joint and mutual business of connecting railroad lines, such as described in your letter.

Upon full consideration, I am of the opinion that section 18 of the war-revenue law authorizes and requires the exemption from stamp taxation of all messages of railroad companies concerning all "the affairs and service of the company," and of such messages, by and to connecting companies, in respect to the joint and mutual business of each, such as described in your letter.

It would seem to be a matter of good public policy in the interest of the public and for the safety of passengers that such free communication should be had between connecting companies as to all joint and mutual business in which there is a joint interest and responsibility to the public. This office rules, therefore, that such messages are within the exemption of the second proviso of section 18, and do not require to be stamped. It should be definitely understood, however, that messages to a connecting line, in relation to the business of one line alone, are not included in the exemption.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. S. GUTHRIE,
Representing Texas and Pacific Railway Co., Washington, D. C.

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(19795.)

Stamp tax—Telegraphic money orders.[1]

Money orders sent by telegraph or express—Instructions.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 29, 1898.

SIR: It is known that the Western Union and other telegraph companies do a somewhat extensive business in the way of telegraphing money orders. These are all taxable at the rate of 2 cents for each order, being orders for the payment of a sum of money. It is suggested that you detail one of your deputies to ascertain if these orders are being duly stamped. Also please ascertain if the large express companies doing a money-order business are paying the tax on the same. It also would be well to notify banks transferring money by telegraphic order that all such orders are liable to a tax at the rate of 2 cents, in addition to the tax on the dispatch or telegram.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. C. H. TREAT, *Collector Second District, New York, N. Y.*

(20060.)

Stamp tax—Telegrams.

Exemption from stamp tax of telegrams of foreign diplomatic officers residing in this country.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 15, 1898.

SIR: In response to your verbal request, I inclose you herewith copy of a letter written to Mr. Arthur T. Brice, cashier Riggs National Bank, Washington, D. C., in which checks and drafts of ambassadors, ministers, or other members of the foreign diplomatic corps residing in this country were exempted from tax when the checks or drafts of such diplomatic agents were made in the course of the conduct of business as such agents, or made in connection with the expenses incidental to their residence here as such agents.

As this ruling does not provide for the case of telegrams, this office will now hold that telegrams of ambassadors, ministers, or other members of the foreign diplomatic corps residing in this country, including consuls-general, consuls, vice-consuls, and their chancellors and secretaries, will be exempt from the stamp tax on telegrams when such telegrams are made in the course of the conduct of business as such officers, or when they are of a purely private or personal nature, subject to the same exception as in the former ruling—that where such persons become

[1] This refers to domestic money orders only.

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engaged in commerce or trade, then telegrams relating to such commerce or trade would become taxable as in the case of other residents of the United States.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. M. MAREAN,
Manager Western Union Telegraph Company, Washington, D. C.

(20066.)

Stamp tax—Telegraphic messages.

Telegraph messages of associated steamship lines, or fast freight lines operating over railroads, not entitled to exemption from stamp tax under section 18, act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 17, 1898.

SIR: I have the telegram of Mr. Thos. F. Clark, acting vice-president Western Union Telegraph Company, asking for a ruling upon the following points:

(1) Are messages of the officials of steamship companies whose ships ply between United States ports, when those messages are sent under Western Union franks, exempt from revenue stamps under the Commissioner's ruling as to messages of railroad officials so sent when such steamship companies are owned or controlled by railroad companies?

(2) If yes, would the same ruling apply to similar messages of officials of steamship companies that are not owned or controlled by railroad companies and whose ships ply between United States ports?

(3) Does the Commissioner's ruling cover the messages of fast freight lines sent under Western Union franks, whether issued direct or by request of the railroad companies owning or controlling such lines?

In reply, I have to say the law will not, in my opinion, admit of an extension of the exemption provision of section 18 to include either the messages of officers of steamship companies which may be owned or controlled by railroad companies, or of officers of fast freight lines operating over railroads. The law has been heretofore as liberally construed by this office as seemed necessary to give effect to the legislative intent. If additional associated enterprises are supposed to be also entitled to the same exemption, the legislative warrant must be specifically given therefor.

The fact that an individual holds a telegraph frank has no bearing upon the question of liability or nonliability to stamp tax of the message sent by such frank holder.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. M. MAREAN,
Manager Western Union Telegraph Company, Washington, D. C.

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(20158.)

Stamp tax—Telegrams.

Telegraphic messages of the Southwestern Bureau not exempt from stamp tax under the second proviso of section 18 of the war-revenue act.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 8, 1898.

SIR: Your letter of 29th ultimo is received, inclosing printed "Articles of agreement of the Southwestern Bureau," which bureau you ask shall be held to be within the scope of the ruling of this office exempting from stamp tax under the war-revenue law "all messages sent under Western Union franks from any official or agent of a railroad company addressed to an officer or agent of a connecting railroad company, when on the joint business of the two railroad companies."

The quotation is incorrect. The words "sent under Western Union franks" were not in the ruling as made by this office. It has not been held that the liability of a given message to tax, or its title to exemption therefrom, in anywise depended upon the question as to whether the sender of the same held a Western Union frank. On the contrary, it has been ruled that it was not material whether or not the sender held a personal frank.

You ask that this office will rule that the telegraph messages sent by the Southwestern Bureau need not be stamped under the war-revenue act.

In reply, I have to say: As nearly as I can judge from the articles of agreement, your organization has nothing whatever to do with the handling of trains upon the respective railroads represented in the bureau, with the delivery of freight and passengers, or the daily routine of operations upon said roads.

It would probably not be claimed that the exemption from stamp tax of telegraphic messages of the Southwestern Bureau is demanded by considerations of public policy. Such considerations have induced this office heretofore to rule in such manner as to relieve the daily business of railroads from the stamp tax. It was done upon the theory that the public had a direct interest in untrammeled communication between railroad officials engaged in their practical operation. For this reason a liberal construction was given to the words "sent over the wires on their respective railroads," as they occur in section 18 of the war revenue act, so as to effectuate what was supposed to be the legislative intent. No reason suggests itself to this office, however, for extending the rulings already made so as to include an outside organization such as the Southwestern Bureau appears to be, even though it may have connection with or be subsidiary to a group of railroad companies.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

MR. E. T. CAMPBELL, *St. Louis, Mo.*

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TELEPHONE COMPANIES.

(20267.)

Monthly returns.

Telephone companies may include in their monthly returns, filed in the collection district in which they are located, messages transmitted over their lines in other districts.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 29, 1898.

SIR: Referring to your letter of the 20th instant, in reference to returns to be made by telephone companies, and life insurance companies issuing policies on the industrial or weekly payment plan, your attention is called to decision 20059 (p. 178), under which insurance companies receiving first weekly premiums in various collection districts, through local agents, are permitted to include such premiums in the returns rendered in the district in which the company is located.

I see no objection to the adoption of the same plan in the case of telephone companies, where the conditions imposed are fully complied with.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

MR. W. H. POWELL, *Collector Thirteenth District, East St. Louis, Ill.*

THEATERS.

(*See also* EXHIBITIONS AND SHOWS.)

(19750.)

Special tax—Theaters.

Where theaters are closed during July and August, and only open in the month of September, special tax is to be reckoned from the 1st day of September.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 22, 1898.

SIR: In reply to your letter of inquiry of the 11th instant, you are hereby advised that where theaters are entirely closed to performances during the months of July and August, and only open in the month of September, the special tax is to be reckoned, under section 3237, Revised Statutes, from the first day of September to the first day of July following, at the rate of $100 for the year beginning July 1. The provisions of section 3237, Revised Statutes, apply as well to the special taxes provided for by the act of June 13, 1898, as to all other special taxes imposed by law.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

MR. F. EIDMAN, *Collector Third District, New York, N. Y.*

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(19799.)

Special tax—Theatrical performances.

The "theatrical performances" contemplated by paragraph 7, section 2, act of June 13, 1898, are only those which are given in connection with a circus—A theatrical company, therefore, merely playing dramas in towns of 25,000 inhabitants (as shown by last census) or less, or in buildings whose proprietors do not hold the $100 special-tax stamp, is required to pay special tax under paragraph 8, namely, $10 for each State for the special-tax year.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 30, 1898.

SIR: Since my answer of the 22d instant to your letter of the 14th instant, the last paragraph of which relates to traveling companies playing dramas, a fuller examination than was at the time possible has been given to the language of paragraph 7 of section 2 of the act of June 13, 1898, imposing a special tax of $100 on proprietors of circuses, wherein it is provided that "Every building, space, tent, or area where feats of horsemanship or acrobatic sports or theatrical performances are exhibited shall be regarded as a circus."

In the opinion of this office the "theatrical performances" therein referred to are those which are given in connection with a circus, as the term "circus" is ordinarily understood. When, therefore, a traveling theatrical company plays dramas (without exhibiting "feats of horsemanship or acrobatic sports") in towns whose population is 25,000 or less, or plays in any building whose proprietor does not hold the special-tax stamp of $100 for his building, under paragraph 6 of that section of the act, the manager of the company must pay special tax; but the special tax required of him is to be paid not under paragraph 7, but under paragraph 8 of this section, viz, $10 for the special-tax year beginning July 1 in each calendar year, or that rate reckoned from the first day of the month in which the liability begins to the 1st day of July following.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

MR. A. B. WHITE, *Collector Internal Revenue, Parkersburg, W. Va.*

(19828.)

Special tax—Theatrical companies.

Theatrical companies traveling and playing in various States.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 4, 1898.

SIR: I reply as follows to the series of questions submitted by you as counsel for Lincoln J. Carter et al., proprietors of theatrical organizations:

(1) The proprietor of a theatrical company traveling over the country and giving exhibitions in such buildings, halls, or edifices as are com-

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monly known as theaters is not required to pay any special tax under section 2 of the act of June 13, 1898, if the proprietors or lessees of the theaters in which such company plays themselves hold the special-tax stamp provided for by paragraph 6 of that section.

(2) Where a theatrical company plays in any other building than a theater or opera house whose proprietor or lessee holds the requisite special-tax stamp under paragraph 6, the company must itself pay special tax under paragraph 8 of the act, viz, $10 for the year beginning July 1 in any calendar year, or at that rate when the special-tax liability begins in any other month than July, reckoned from the first day of such month to the 1st day of July following.

The special-tax stamp issued to the proprietor or manager of the theatrical company, it is held, covers only the exhibition given by one company. Where he has several companies playing at the same time in the same State a separate special-tax stamp must be taken out for each. The stamp issued to him is good for any one company in a State playing under his management, and it matters not what changes are made in the personnel of the company or in the plays which it presents to the public. It may be used in the State for which it is issued for all of his several companies if not more than one of these companies is playing in the same State at the same time.

(3) While it is not permissible, under the special-tax laws and the regulations of this Department, for any collector to issue, "at one time and place," special-tax stamps to a proprietor or manager of a theatrical company for "a large number of different States and Territories," yet, as it is understood that, before the commencement of his season, the proprietor of the company has already booked his company to play in various States, there is nothing in the law or regulations to prevent him from sending in advance, to the collector of the district in any particular State where his company in the future is to appear, a Return Form 11, duly filled up and signed, setting forth the particular month and date in which it is so to appear; and, upon payment of the requisite special tax, reckoned from the first day of such month to the 1st day of July following, the collector will thereupon issue to him the necessary stamp.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. LEON O. BAILEY, *Indianapolis, Ind.*

(19891.)

Special tax—Summer theater.

Summer theater outside of corporate limits of a city.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 13, 1898.

SIR: In reply to your letter of the 30th ultimo, concerning "The Harrison Park Casino," outside of the corporate limits of Terre Haute,

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which you say "is used as a summer theater, for the purpose of giving operatic, dramatic, and vaudeville performances," the price of admission to which is "nominal," these performances being given in the evening between the first of June and the last of August, you are hereby advised that if no feats of horsemanship or acrobatic sports are included in connection with these performances special tax is required to be paid therefor not under paragraph 6 or 7 of section 2 of the act of June 13, 1898, but under paragraph 8.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. D. W. HENRY, *Collector Seventh District, Terre Haute, Ind.*

(19939.)

Special tax—Theaters.

Lessee of an opera house in small town of less than 25,000 inhabitants not liable to special tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 23, 1898.

SIR: Your letter of the 18th instant has been received, stating that you are the "lessee of an opera house in Morristown, Tenn., a place of 4,000 inhabitants," and inquiring whether you are subject to a special tax of $100 for this edifice under paragraph 6 of section 2 of the act of June 13, 1898.

You are hereby advised in the negative, as the provisions of that paragraph expressly relate only to such edifices "in cities having more than twenty-five thousand population as shown by the last preceding United States census." But theatrical companies, minstrel companies, etc., playing therein must pay a special tax, reckoned from the 1st day of the month in which they begin playing to the 1st day of July following, at the rate of $10 for the year, beginning July 1 in each calendar year, under paragraph 8, unless they already hold a ten-dollar special-tax stamp for the State of Tennessee under that paragraph, which stamp taken out by any such company is sufficient to cover its performances anywhere and everywhere in the State for which it is issued.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. J. C. WHEELER, *Morristown, Tenn.*

(20025.)

Special tax—Theaters, etc.

Theaters in small towns—Traveling theatrical companies—Horse races—Baseball games—County fairs.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 8, 1898.

SIR: Your letter of the 10th ultimo has been received. * * *

To the further questions submitted in your letter I reply—

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(1) Proprietors or lessees of theaters in towns of less than 25,000, as shown by the last census, are not required to pay any special tax under either paragraph 6 or paragraph 7. If they hire the performers who exhibit in their theaters they are required to pay a special tax of $10 under paragraph 8. If they do not hire them the traveling company playing at any one of these theaters is required to pay the $10 special tax under paragraph 8. The mere fact that they exhibit incidentally some acrobatic feats in connection with their theatrical performances does not necessitate the payment of special tax by them as a circus under paragraph 7.

(2) Traveling theatrical companies playing at theaters in large towns whose proprietors have paid special tax under paragraph 6 of the act, are not required to pay special tax under paragraph 8 nor under any other paragraph of said section of this act for their performances in such theaters.

(3) Traveling companies playing dramas under a tent are not subject to special tax under paragraph 7. The special tax required of them is $10 under paragraph 8 (or, rather, at that rate), reckoned from the 1st day of the month in which the liability began to the 1st day of July following.

(4) The mere occasional hiring of traveling or resident musicians to play in saloons does not subject the proprietors of the saloons to special tax under paragraph 8.

(5) Exhibitions of speed of horses on race tracks and exhibitions of baseball playing (to which an admission fee is charged) are not subject to tax under paragraph 7, but under paragraph 8.

(6) Traveling baseball clubs are not subject to tax under paragraph 8 if the special tax under that paragraph has already been paid for the grounds on which the game is played.

(7) Agricultural societies at whose county fairs horse races are exhibited are not required to pay special tax under paragraph 7. The special tax required of them is to be paid under paragraph 8. Exhibitions of the speed of horses on race tracks are not the "feats of horsemanship" contemplated by paragraph 7.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. G. P. WALDORF, *Collector Tenth District, Toledo, Ohio.*

(20396.)

Special-tax stamp—Theaters.

A special-tax stamp taken out by the lessees of a theater can not, upon their transferring their lease to other persons, be transferred and made to answer for the latter persons in conducting the theater.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 6, 1898.

SIR: Your letter of the 26th ultimo has been received, stating that Paxton, Burgess & Woodward, lessees of the Creighton Theater, have

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"paid special tax for twelve months ending June 30, 1898," but that the "theater has since been leased to other persons, who take possession on December 1."

In reply to the question which you submit you are hereby advised that the new lessees must make return and pay special tax for this theater reckoned from December 1, 1898, to July 1, 1899.

The special-tax stamp held by Paxton, Burgess & Woodward for the Creighton Theater is merely their receipt for the tax required by the law to be paid by them when they were lessees of the theater. There is no provision of law for transferring it to any other person.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. J. E. HOUTZ, *Collector Internal Revenue, Omaha, Nebr.*

TOBACCO, CIGARS, AND SNUFF.

(*See also* DECISION 19744, p. 284.)

(19619.)

Special tax—Dealers in leaf tobacco.

Manufacturers of tobacco or cigars who do not sell leaf tobacco, but who purchase and temporarily store surplus stock, intended for use at their several factories, will not be required to pay special tax as dealers in leaf tobacco, but such tax will be imposed should they engage in the business of selling leaf tobacco.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 2, 1898.

SIR: This office has received your letter of the 25th ultimo, inclosing one dated 24th ultimo from Deputy Collector Bonor, from which it appears that a number of tobacco manufacturers of your district register as dealers in leaf tobacco for their own accommodation, and sell no tobacco to other persons, but take this method of keeping account with their factories, and the question is asked whether they can continue this method without incurring the liability to special tax imposed on dealers in leaf tobacco.

The further question is presented whether manufacturers who qualify as dealers in leaf tobacco solely for the purpose of purchasing surplus stock of material not required for immediate use, and which they temporarily store off the factory premises, but is not intended to be resold, will under these circumstances be required to pay special tax as dealers in leaf tobacco.

In reply, you are advised that special taxes as dealers in leaf tobacco will not be required from manufacturers of tobacco or cigars who do not sell leaf tobacco, but purchase and temporarily store surplus stock

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intended for use at their several factories, but such special tax will be imposed upon such manufacturers should they engage in the business of selling leaf tobacco.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. B. WHITE, *Collector Internal Revenue, Parkersburg, W. Va.*

(19765.)

Consolidated packages of tobacco and special tax on dealers in tobacco.

Manufacturers can not pack goods of another factory on goods made at their own factory—Manufacturers selling their own products at place of manufacture not required to pay special tax as dealers in tobacco—Manufacturers are not permitted to pack stamped packages of smoking tobacco or stamped caddies of plug tobacco between the chime and head or bottom of such packages.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 26, 1898.

SIR: This office has received your letter of the 19th instant, inclosing one dated 16th instant from Mr. C. W. Toms, manager Duke, Son & Co. Branch of the American Tobacco Company, Durham, N. C., in which they ask whether the company will be required to pay special tax at Durham as dealer in tobacco should they pack the goods of another factory on those made at their factory; all goods so packed to be sold and shipped to a customer in New York, where the company pays a special tax as dealer in tobacco.

In reply, they have been advised that a manufacturer of tobacco may sell his own products at the place of manufacture without payment of special tax as dealer in tobacco.

This office will not grant manufacturers permission to pack tobacco, cigars, or cigarettes of their own manufacture on tobacco of their own manufacture, and will not authorize tobacco made by different manufacturers to be consolidated in one package at one place of manufacture for the purpose of shipment in the manner indicated. Two or more kinds of manufactured tobacco, or two or more kinds of cigars or cigarettes can not be packed together in one package, but such goods after being separated and properly packed and stamped may be crated together for the purpose of shipment. Each kind of tobacco, whether plug, fine-cut chewing tobacco, or smoking tobacco, and cigars and cigarettes, must be separately packed in authorized packages, and each package must be stamped according to the kind and quantity of the article so packed. It is not permissible for one manufacturer to repack or crate at his factory the goods of another manufacturer in consolidated packages for shipment, and the company has been so advised.

An officer of the company, in person, recently presented the question whether they would be permitted to pack stamped packages of smoking

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tobacco on stamped caddies of plug tobacco, between the chime and head or bottom of such caddies, for advertisement purposes and convenience in shipping. No permission was given the company to pack tobacco in this manner. The decision of the office was suspended, and if this company has since that time adopted the use of such consolidated packages they will be discontinued.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. E. C. DUNCAN, *Collector Fourth District, Raleigh, N. C.*

(19801.)

Special tax—Dealers in leaf tobacco.

Dealers in leaf tobacco who improperly qualify as manufacturers of cigars for the purpose of dealing in cigar cuttings, and who made no cigars last year, are not liable to special tax as manufacturers of cigars, but such persons will be required to close their business as cigar manufacturers and may qualify as manufacturers of tobacco.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 1, 1898.

SIR: This office has received a letter from C. M. Benninghaus and J. R. Miller, dated 28th ultimo, in which they state that they are dealers in leaf tobacco, and in order to handle cigar cuttings have qualified as cigar manufacturers, Factory No. 577 in your district, and they allege that they do not manufacture cigars or tobacco, or any product from the leaf or from cuttings. They have asked to be informed whether they are liable to special tax as manufacturers of cigars, and if so, of what class. * * *

In reply, you are advised that the special tax, imposed on manufacturers of cigars by the act of June 13, 1898, is to be computed on the basis of the annual sales for the preceding fiscal year. In the case presented there is nothing upon which to predicate the liability to special tax, and while these persons will be required to pay special tax as dealers in leaf tobacco according to their class, they will not be required to pay special tax as manufacturers of cigars.

In this connection you are advised that these persons should qualify as manufacturers of tobacco and immediately close their business as manufacturers of cigars, and in case they assort, size, cut, and clean their material in such manner that it becomes a merchantable manufactured tobacco, or granulated tobacco, they will be required to properly pack, label, and stamp all such merchantable manufactured tobacco before the same is removed from the factory, as such product can not be sold in bulk as material and without payment of tax by one manufacturer directly to another manufacturer, and before you issue a special permit for transfer of material in such cases you should be sat-

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isfied that the same is not a merchantable manufactured tobacco, or a granulated tobacco the process of manufacture of which has been completed.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. F. PARLETT, *Collector Internal Revenue, Baltimore, Md.*

(19802.)

Special tax—Peddlers of tobacco.

Peddlers of tobacco not required to pay special tax under act of June 13, 1898, as dealers in tobacco, but are required to register and give bond as heretofore.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 1, 1898.

SIR: This office has received your letter of the 5th ultimo, in which you inquire what certificate, if any, is provided for a peddler of tobacco whose sales last fiscal year of manufactured tobacco were less than 50,000 pounds, and whether a peddler of tobacco whose sales last year exceeded 50,000 pounds will be regarded as a dealer in tobacco and liable to pay special tax imposed on dealers in tobacco.

In reply, you are advised that it is held by this office that section 4 of the act of June 13, 1898, imposing a special tax on dealers in tobacco, was not intended to impose a tax on peddlers of tobacco, and they will be required to register and give bond the same as heretofore.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. E. C. DUNCAN, *Collector Fourth District, Raleigh, N. C.*

(19822.)

Special tax—Dealers and manufacturers of tobacco.

Dealers in leaf tobacco, and manufacturers of tobacco or cigars, who were not engaged in business last fiscal year, required on commencing business to pay minimum rate of special tax, and when sales during the year reach an amount requiring payment of higher rate, will make return and pay tax at the higher rate.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 3, 1898.

SIR: Referring to your letter of the 24th ultimo, asking whether dealers in leaf tobacco, dealers in manufactured tobacco, manufacturers of tobacco, and manufacturers of cigars who propose to engage in business this fiscal year, and who were not engaged in business last fiscal year, will be required to pay special tax, and if so, on what basis will the tax be computed, you are advised that as the liability of such persons

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to payment of special taxes imposed by section 4, act of June 13, 1898, can not be predicated upon the annual sales of the preceding fiscal year, the liability and rate of special tax will be determined by their monthly sales made during the fiscal year in which they commenced business.

At the time dealers in leaf tobacco and manufacturers of tobacco or cigars commence business, if in the month of July of the special-tax year, they will each be required to register and pay the minimum rate of special tax, $6, and should their aggregate monthly sales at any time during the year reach an amount requiring payment of higher rates of special tax they will immediately render their returns to the deputy collector at such times within the calendar month in which the special tax at the higher rate commenced.

The tax in the last case will be reckoned from the 1st day of July for the entire year, and the stamps held by such persons for the smaller rates of tax should be sent through the collector's office to the office of the Commissioner of Internal Revenue for redemption.

It is held that a person not engaged in the business of dealer in manufactured tobacco, snuff, or cigars prior to July 1, 1898, but who on that date, or subsequently during the year, engages in the business will be required to pay special tax whenever his sales at any time within the year exceed 50,000 pounds. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. DAVID M. DUNNE, *Collector Internal Revenue, Portland, Oreg.*

(19844.)

Special tax—Quasi manufacturers of tobacco.

Persons who have qualified as manufacturers of tobacco for the sole purpose of handling and dealing in stems, refuse scraps, cuttings, clippings, and sweeping of tobacco are required to register and pay the minimum rate of special tax, $6, imposed on manufacturers of tobacco.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 9, 1898.

SIR: This office has received your letter of the 4th instant, in which you state that you are a dealer in leaf tobacco, and as such have registered and paid special tax of $24. You further advise the office that you have qualified as a manufacturer of tobacco for the sole purpose of handling and dealing in stems, cuttings, and scraps, and that you do not manufacture any tobacco, and that you have paid the minimum rate of special tax, $6, imposed on manufacturers of tobacco, under protest. You state further that you sell thousands of hogsheads of stems which have always been shipped direct from the factories where made to the depot, and from there to the collector of customs for the port

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from which the vessel sailed, and that you have been advised that you could not handle stems in this manner.

In reply, you are advised that you are liable to the minimum rate of special tax, $6, imposed by act of June 13, 1898, on manufacturers of tobacco whose annual sales for the preceding fiscal year did not exceed 50,000 pounds, although you may not have sold any manufactured tobacco upon which the tax was required to be paid.

You are also advised that your practice of handling and dealing in stems in their natural condition, and which you receive from different factories, has been in contravention of the regulations, series 7, No. 8, revised, page 8. The manufacturers selling these stems were required to reduce them to a condition which would render them unfit for use as smoking tobacco or snuff before being removed from the factory, and the law makes no provision for exportation of tobacco stems. Manufacturers producing stems which are intended to be disposed of in their natural condition and exported will be required to enter the same for shipment in bond under the same rules and regulations as govern the shipment and exportation of refuse scraps, cuttings, and sweeping of tobacco and other descriptions of taxable tobacco. The revised regulations * * * will contain such conditions, but, as suggested by your letter, these stems may be shipped in bond directly from the factory where they were produced to avoid unnecessary expense of cartage from the factory to the purchaser who exports the same.

Respectfully, yours, N. B. SCOTT, *Commissioner*.

Mr. E. K. VIETOR, *Richmond, Va.*

(19876.)

Sale of leaf tobacco, refuse scraps, and stems by manufacturers of tobacco.

A manufacturer of tobacco, snuff, or cigars may, under special permit granted by the Commissioner, sell leaf tobacco, refuse scraps, etc., in bulk as material directly to another manufacturer—Stems rendered unfit for use in the manufacture of smoking tobacco or snuff may be sold as fertilizers, insecticide, or sheep wash—Manufacturers prohibited from selling stems in their natural condition, except sale is made to another qualified manufacturer of tobacco.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 10, 1898.

SIR: This office has received your letter of the 6th instant, in which you ask—

(1) Whether a manufacturer of tobacco or cigars who sells unstemmed leaf tobacco to other manufacturers is required to pay special tax as dealer in leaf tobacco.

(2) Whether a regularly qualified manufacturer who sells stemmed leaf to another qualified manufacturer is required to pay special tax as dealer in leaf tobacco.

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(3) Whether a manufacturer who sells scraps, clippings, stems, or waste to other manufacturers, or to persons who use the same for fertilizing purposes, is required to pay special tax as dealer in leaf tobacco.

In reply, you are advised that duly qualified manufacturers of tobacco, snuff, or cigars, may, under special permit granted by the Commissioner, sell stemmed or unstemmed leaf tobacco to other qualified manufacturers of tobacco, snuff, or cigars without being required to register and pay special tax as dealers in tobacco.

Special permits are only granted when it is ascertained that the manufacturer has material on hand which he finds is not suitable for his business, and special permits are also granted by the Commissioner when the manufacturer desires to close his factory.

The regulations, series 7, No. 8, page 7, permit manufacturers who desire to sell stems, shorts, or refuse scraps, cuttings, clippings, and sweepings of tobacco in bulk and as material to another manufacturer to apply to the collector for special permits to make such sales and transfers.

Stems, after being reduced by admixture with lime, ashes, or sulphur to a condition from which they would afterwards be unfit for use in the manufacture of snuff or smoking tobacco, may be disposed of as fertilizers, insecticide, or sheep wash without special permit from the collector, but any sale of stems in their natural condition by manufacturers to persons other than qualified manufacturers of tobacco is prohibited by the regulations.

Manufacturers confining their business within the limits of prescribed regulations are not required to register and pay special tax as dealers in leaf tobacco or as dealers in manufactured tobacco.

Manufacturers are not permitted to occupy any portion of their bonded factory premises for carrying on separate business as dealers in leaf tobacco or as dealers in manufactured tobacco.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. GEO. P. WALDORF, *Collector Tenth District, Toledo, Ohio.*

(19877.)

Leaf tobacco sold by farmers.

Farmers and growers of tobacco are permitted to sell leaf tobacco of their own growth and raising, either in the hogshead, case, or bale, or loose in the hand, without restriction, but are not permitted to stem, twist, roll, plait, sweeten, cut, or grind, or otherwise reduce the tobacco from its natural condition and sell the same to consumers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 10, 1898.

SIR: In reply to your letter of the 5th instant, you are advised, as heretofore on 14th ultimo, that the farmer or grower is permitted to

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sell tobacco of his own growth or raising, either in the hogshead, case, or bale, or loose in the hand, without restriction, but he is not permitted to stem, twist, roll, plait, sweeten, cut, or grind, or otherwise reduce the tobacco from its natural condition in which it was cured on the farm, and sell the same to consumers. All leaf tobacco treated in this manner is regarded as manufactured tobacco, and subject to tax. Registered dealers in leaf tobacco are, however, permitted to size, assort, stem, and prize their leaf tobacco preparatory to its sale to other qualified dealers in leaf tobacco, or to manufacturers of tobacco, or to persons who purchase the same for export.

If the farmer confines his sales to tobacco of his own growth and raising, and in its natural condition, he will not be required to register and pay special tax as dealer in leaf tobacco.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. B. WHITE, *Collector Internal Revenue, Parkersburg, W. Va.*

(19962.)

Sale of leaf tobacco by farmers.

The farmer or grower may sell leaf tobacco of his own growth or raising in the hogshead, case, or bale, or loose in the hand—An agent can not sell and deliver tobacco for the farmer—A farmer who sells and delivers leaf tobacco of his own raising is not required to make return or pay special tax as dealer in leaf tobacco.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 24, 1898.

SIR: In reply to your letter of the 18th instant, you are advised that the act of June 13, 1898, does not change the law previously existing relating to farmers or growers of tobacco. The farmer has a right to sell and deliver leaf tobacco of his own raising in the original hogshead, case, or bale, or loose in the hand, but is not permitted to stem, twist, roll, plait, sweeten, cut, or grind, or otherwise reduce the tobacco from its natural condition in which it was cured on the farm, and sell the same to consumers. The farmer can not employ an agent to travel from place to place and sell and deliver his tobacco, but he may himself sell and deliver the tobacco in any quantity. If the tobacco is sold on sample by an agent it must be delivered by the farmer or grower directly to the purchaser.

There is no special tax imposed upon the farmer or grower for selling tobacco of his own growth and raising. Neither is he required to qualify as a dealer in leaf tobacco in order to dispose of his crop.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

T. M. RYAN TOBACCO COMPANY, *Martin, Tenn.*

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(20153.)

Special tax—Cigar manufacturer.

No provision of law by which a special-tax stamp issued to one person can be transferred to and made use of by any other person, except in the single instance of the death of the special tax payer, expressly provided for by section 3241, Revised Statutes.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 5, 1898.

SIR: In reply to your letter of the 26th ultimo, concerning a cigar manufacturer who has "paid his $6 war-revenue tax," and "now desires to increase his business by taking in a partner, altering the name of the firm concerned," and asks "to know whether he will be compelled to pay a new $6 war-revenue tax, or whether the proportionate amount of war tax already paid in can be applied to the new firm," you are hereby advised that the tax paid in July by the cigar manufacturer in question was the special tax for the business carried on by himself at that time, which the law (sec. 3237, Rev. Stat., as amended) provides shall be paid for the entire year, beginning July 1.

As there is no provision of law by which a special-tax stamp issued to one person can be transferred to and made use of by any other person, except in the single instance of the death of the special tax payer, which is expressly provided for by section 3241, Revised Statutes, the firm created by the association of another person with this cigar manufacturer in this business, being an entirely distinct and separate person in law from him, must pay its own special tax reckoned under section 3237, Revised Statutes, from the first day of the month in which it begins business to the 1st day of July following, and take out the requisite stamp in the firm name, without any reference to or allowance for the special tax paid by him for business carried on by him before this firm came into existence.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. EDWARD N. DINGLEY, *Kalamazoo, Mich.*

(19972.)

Stamp tax—Auction sales of tobacco.

Auction sales of tobacco in warehouses, or at "tobacco breaks," subject to tax same as upon sales of "any products or merchandise at any exchange or board of trade, or other similar place."

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 29, 1898.

SIR: Your letter of the 19th ultimo was duly received and has been considered.

You state that the exclusive business of your company is selling

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tobacco on commission for the farmers who grow it, and also for dealers who buy from the farmers and ship it in. You state that all the tobacco that you receive is sold at public auction in your salesroom, where the auction sales are held four times a week; that as soon as it is sold you make out an account of sales for the owner of the tobacco, and also an invoice for the purchaser, blank copies of which you inclose with your letter. You ask if you are liable for any stamp tax, either on account of sales or invoice, bearing in mind that these goods are not sold by any board of trade, exchange, or association. You further state that you occupy the buildings exhibited in the cut at the head of your letter sheet.

It would appear from the size and extent of the buildings pictured in your communication and on the invoice that they are prepared for a large and extensive business. They include, apparently, great capacity for storage. The sales rooms appear to be large and commodious. It is plain that your establishment is devoted exclusively to the reception and disposal of this one product—tobacco. It is not an exchange or board of trade. But on four days in the week auction sales are held there, according to your statement, which I must infer are largely attended, and at which extensive transactions are carried on. For the one product which is there marketed it is, in its environments and the general business that is there carried on during four days in the week, similar to an exchange or board of trade. The tobacco business is peculiar to itself. Next to breadstuffs, cotton and tobacco are perhaps the great staples of this country. Although cotton is marketed usually in the large cities at a "cotton exchange," tobacco is disposed of in a somewhat similar manner at either warehouses or, in the Southern States, at what are called "tobacco breaks." The sales of these two great products—cotton and tobacco—are made substantially under similar conditions as are the sales of the breadstuff products marketed by their samples at the exchange or board of trade in the cities controlling the main trade therein. In each case there is open competitive bidding, attended by large numbers of traders, and I am constrained to say that the place where tobacco is sold in the manner you have described falls clearly within the law prescribing a tax upon sales of "any products or merchandise at any exchange or board of trade, or other similar place." The tax upon such sales, as prescribed in Schedule A, act of June 13, 1898, is, for each $100 in value of said sale, or agreement of sale, or agreement to sell, 1 cent, and for each additional $100 or fractional part thereof in excess of $100, 1 cent. The law further requires that on every sale, or agreement of sale, or agreement to sell, as aforesaid, there shall be made and delivered by the seller to the buyer a bill, memorandum, agreement, or other evidence of such sale, agreement of sale, or agreement to sell, to which there shall be affixed a lawful stamp or stamps in value equal to the amount of the tax on such sale. It is also required that every such bill, memorandum, or other evidence of sale or agreement to sell shall show the date thereof, the name of the

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seller, the amount of the sale, and the matter or thing to which it refers. These requirements appear to be carried out in the form of invoice which you use and make out for the buyer, and this invoice requires a stamp or stamps as prescribed by the law.

I have heretofore ruled that the sales made at a "tobacco break" are subject to tax as herein explained, on the ground that it is a "similar place" to an exchange or board of trade, and I must make the same decision in regard to your own establishment.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. H. H. PECK,
President Farmers and Shippers' Leaf Tobacco Warehouse Company, Cincinnati, Ohio.

(20236.)

Stamp tax—Sales of tobacco.

Tax on sales of tobacco at a board of trade, exchange, or other similar place, or through auctioneers.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 24, 1898.

SIR: Replying to your letter of the 29th ultimo, requesting a ruling from this office upon the sales of tobacco as made at Danville, Martin, Winston, and elsewhere in the tobacco sections of Virginia and North Carolina, at public auction, you are informed that the question was submitted by this Department to the honorable Attorney-General early in this month, and that, from the views of the Department of Justice upon this question, this office is now enabled to state that the general rule must apply to the sales made at an exchange, board of trade, or other similar place, or if the dealer assumes the character of a commercial broker, and the tax must be paid upon the sales in case they amount to $100 or over, as required under the provisions of the act. But in those cases where farmers bring tobacco, which is the product of their own farms, directly from the places of production to the places of sale, and it is sold at such places of sale by auctioneers, who make the sales in the name of the farmers and owners of the tobacco, a memorandum of sale and stamp is not required. In other words, it is held that where the farmer or producer brings his tobacco and sells it in his own name through an auctioneer the sales thus made will come within the scope of a sale made at an auction house and not through an exchange or board of trade or other like place.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Hon. CLAUDE A. SWANSON,
House of Representatives, Washington, D. C.

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WAREHOUSE RECEIPTS.

(*See also* DECISIONS 19615, p. 123; 20118, p. 102.)

(19526.)

Stamp tax—Warehouse receipts.

Companies in the cold storage business required to pay tax on warehouse receipts, except receipts for agricultural products deposited by the actual grower thereof in the regular course of trade for sale.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 21, 1898.

SIR: James T. Hoge, general manager Baltimore City Cold Storage and Warehouse Company, has written to this office, under date of the 16th instant, inquiring as to the stamp tax of 25 cents on warehouse receipts for goods held on storage, and has been referred to you.

You will please inform him that companies in the cold storage business for the preservation of perishable goods are not exempt from the tax imposed by the act of June 13, 1898, upon warehouse receipts for goods, merchandise, or property of any kind held on storage in any public or private warehouse or yard, except receipts for agricultural products deposited by the actual grower thereof in the regular course of trade for sale.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. BENJ. F. PARLETT, *Collector Internal Revenue, Baltimore, Md.*

(19577.)

Stamp tax—Warehouse receipts.

Warehouse receipts for whisky in bond subject to tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 27, 1898.

SIR: In reply to the letter addressed to you by The Ph. Hamburger Company, distillers of your district, which you referred to this office on the 22d instant, you will please inform them that warehouse receipts issued by them for whisky in bond are subject to stamp tax under the last clause of schedule A of the act of June 13, 1898.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES S. FRUIT, *Collector Twenty-third District, Pittsburg, Pa.*

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(19689.)

Stamp tax—Warehouse receipts.

Warehouse receipts for whisky in bond require the 25-cent stamp.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 13, 1898.

SIR: In reply to a letter of inquiry addressed to this office by Rosenfield Bros. & Co., Chicago, * * * you will please inform them that the warehouse receipt for whisky in bond submitted by them, although it contains conditions which prevent its sale and delivery from conveying to the purchaser the absolute ownership and possession of the whisky until such conditions are complied with, is nevertheless a warehouse receipt which, under the last clause of Schedule A of the act of June 13, 1898, requires the 25-cent stamp.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. E. COYNE, *Collector First District, Chicago, Ill.*

(19737.)

Stamp tax—Warehouse receipts.

Warehouse receipts for perishable goods—Definition of warehouse—A receipt for storage of fresh meats, vegetables, etc., for home-market consumption, from day to day, not a "warehouse receipt," and not subject to stamp tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 20, 1898.

SIR: The St. Louis Automatic Refrigerating Company, W. G. Simmons, secretary and treasurer, has written to this office, under date of the 30th ultimo, desiring to obtain a ruling on the question of warehouse receipts, such as are issued by this company for goods stored for refrigeration only—perishable goods. They state that the value of the goods stored is very small, and in the course of their business they issue many receipts the storage charge upon which is 25 cents, and if such a receipt will require a 25-cent stamp they will have to decline the business.

You will please inform Mr. Simmons that the provision of the law in regard to this subject is as follows:

Warehouse receipt for any goods, merchandise, or property of any kind held on storage in any public or private warehouse or yard, except receipts for agricultural products deposited by the actual grower thereo in the regular course of trade for sale, 25 cents.

The definition of a warehouse seems to be a place where goods or merchandise not wanted for immediate sale are placed for safe-keeping, and are kept for hire, and the term seems rather to be applicable to

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places of storage where goods and merchandise are stored in at least considerable quantities. While the act says "held on storage in any public or private warehouse," it also uses the word "yard," which is intended to mean a yard for storage. Now, yards are used for the storage of lumber, cotton, coal, wood for fuel, and such other goods or merchandise as can be safely stored with or without sheds. I do not think that Congress intended to include under this paragraph of Schedule A places which are kept for the preservation and safety of perishable articles, such as meats, fruits, and vegetables, especially those which are maintained for the storage of such articles in small quantities.

I am of the opinion that where such things as fresh meats, fish, and other articles of supply which are kept in markets in cities where people go to buy for consumption from day to day, simply for preservation and safety, are stored, the receipt given would not be called a "warehouse receipt," but if the company goes to the extent of receiving for storage a considerable quantity of property to be held for some length of time, then their business in such instance would assume the character of a warehouse, and the receipt given under such circumstances should bear the stamp.

It is in some respects difficult to draw a well-defined line of distinction, and you will have to apply the law in this case and in like cases according to the circumstances.

Where the charges are of such a small character as 10 or 25 cents for storage of perishable goods, it does not seem reasonable that the keeper of the place of storage should be required to pay a stamp tax of 25 cents on the receipt.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. H. C. GRENNER, *Collector First District, St. Louis, Mo.*

(19744.)

Stamp tax—Warehouse receipts.

Interpretation of the war-revenue act in its application to tax on warehouse receipts.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 21, 1898.

SIR: Mr. Beverly T. Crump, of Richmond, has written to this office, under date of the 4th instant, asking an interpretation of the war-revenue act in its application to the stamp tax upon warehouse receipts.

Mr. Crump is engaged in the tobacco business in Richmond, and called upon this office as the representative of the tobacco trade. As the legal adviser, he has prepared a brief, which he has submitted. The question presented by him is in substance as follows:

If the actual grower of tobacco, which is an agricultural product,

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deposits the same in a warehouse in the regular course of trade, for sale, and takes a warehouse receipt, which is a negotiable instrument under the statute law of Virginia, this receipt being exempt from the stamp tax when it is issued, does it become subject to the stamp tax any time thereafter, especially when presented by the holder, in order to obtain possession of the product stored in the warehouse?

In the opinion of this office the receipt described by Mr. Crump comes within the exempting provision in the last paragraph of Schedule A of the act of June 13, 1898, and there is no provision of law which would require it to be stamped at any time after its issuance (if the tobacco which it represents remains in warehouse as it was originally deposited by the grower), although the same may be transferred as a negotiable instrument and presented to the warehouseman by other than the original holder. But where the tobacco, or the warehouse receipt therefor, is "sold at any exchange or board of trade, or other similar place," a memorandum of such sale must be made by the seller, and the stamp affixed thereto and canceled, representing payment of the tax of 1 cent on the sale if it amounts to $100, and 1 cent on each additional one hundred dollars or fraction thereof under the second paragraph of Schedule A of the act.

Where a warehouse receipt is sold by a broker at his own office, or elsewhere than at a place of exchange or other place of public sale, the 10-cent stamp must be affixed to the memorandum of this transaction under that paragraph of the schedule relating to the broker's contract.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES D. BRADY, *Collector Internal Revenue, Richmond, Va.*

(19832.)

Stamp tax—Warehouse receipts.

A receipt or memorandum given by a warehouseman, or any signing by a warehouseman of an express company's book, or other receipt evidencing the fact that goods have been placed on storage, is a warehouseman's receipt, and requires a stamp tax of 25 cents.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 4, 1898.

SIR: This office is in receipt of a letter dated July 16, 1898, from John H. Poston, corner Calhoun and Tennessee streets, Memphis, Tenn., in which he asks this office to interpret "warehouse receipt," and does it apply to memorandum receipts, a sample of which he inclosed, which are not negotiable.

* * * You will please advise him that the interpretation of this office of the words "warehouse receipt" is as follows: Any receipt or

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memorandum given by a warehouseman, or any signing by a warehouseman of any express company's book or other receipt evidencing the fact that goods have been placed on storage, is such a receipt, requiring a stamp tax of 25 cents, whether same is negotiable or non-negotiable.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. DAVID A. NUNN, *Collector Fifth District, Nashville, Tenn.*

(19833.)

Stamp tax—Warehouse receipts.

The Commissioner of Internal Revenue can not decide whether the warehouseman or the private individual storing the merchandise shall affix the stamp—If there is any controversy, the remedy is in the courts.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 5, 1898.

SIR: This office is in receipt of a letter from Norton Brothers, 719 Mooney Brisbane Building, Buffalo, N. Y., in which they inquire who shall pay the 25-cent tax imposed on warehouse receipts, the warehouseman or the customer bringing the goods for storage.

The act of June 13, 1898, is silent as to who shall pay the tax. It requires the receipt to be taxed and stamped.

Section 13 of this act provides that any person or persons who shall register, issue, sell, or transfer, or who shall cause to be issued, registered * * * any instrument, document, or paper * * * mentioned in Schedule A without the same being duly stamped * * * and canceled, in the manner required by law, with intent to evade the provisions of this act, shall be guilty of a misdemeanor. * * *

This office can not advise Messrs. Norton Brothers who shall pay the tax. Its duty is to see that the receipts are stamped, if required to be, and to enforce the law if they do not have a stamp affixed as provided.

If the storage company refuses to receive goods unless the tax is paid by the party depositing them for storage, or having received them it charges 25 cents for stamp duty in addition to the storage charges, the remedy for the same does not lie within the province of this office. It must be sought elsewhere, if there is one. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. VALENTINE FLECKENSTEIN,
Collector Twenty-eighth District, Rochester, N. Y.

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(19840.)

Warehouse receipts—Insurance.

Every separate consignment requires stamp tax—Such consignment may occupy several days—Stamp to be affixed to the evidence of consignment—Local operators need not give bills of lading, nor are their receipts taxable—Storage company, charging and receiving pay for increased risk, should pay tax for insurance.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 5, 1898.

SIR: This office is in receipt of a letter bearing date of July 11, 1898, from Mr. Walter C. Reid, secretary of the New York Furniture Warehouseman's Association, 32–42 East Forty-second street, New York City, to which careful consideration has been given.

This association inquires through Mr. Reid—

(1) If a warehouse certificate showing different dates of entry of goods requires one 25-cent stamp, or would a 25-cent stamp be required for goods received on each date, and would one entry brought by the same carrier, though on different dates, require a 25-cent stamp for the entry of each separate date?

Every separate consignment of goods delivered for storage requires a receipt, and the receipt must be stamped if the consignment requires or does occupy several days in delivery. It need not have but one tax of 25 cents on its receipt if it can be shown to be but one consignment.

(2) If no warehouse receipt is issued, the book of the express company delivering the consignment being signed as a receipt, should the 25-cent stamp be affixed thereto?

It should be affixed to the book, express company's receipt, or other instrument or paper evidencing the delivery by the sender and the receipt by the warehouseman.

(3) Is the warehouseman who has vans and wagons of his own in order to carry on the furniture storage business considered a carrier under the revenue law requiring him to give a bill of lading which should be stamped?

Mere local operators for the delivery of packages, baggage, and such like within the same town or city are not required to give bills of lading, although they may give receipts for articles to be delivered; these receipts are not required to be stamped.

(4) He incloses an instrument and inquires whether it comes under the clause relating to insurance, and asks how it shall be taxed.

This instrument recites that in consideration of the additional charge of ——— dollars per month the storage company agrees to assume additional responsibility, according to the terms and conditions of the warehouse receipt to which it is attached and of which it forms a part, and enumerates the articles for which additional responsibility is assumed.

This is a contract whereby, for an agreed premium, one party under-

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takes to compensate the other for loss on a specified subject by specified perils. It is in effect insurance, and should be taxed as a policy of insurance at the rate of one-half of 1 cent on each dollar or fractional part thereof of the premium charged. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

(19889.)

Stamp tax—Cotton compress receipts.

When cotton compress receipts can become warehouse receipts—When taxable and when not taxable—Exemption of actual producers—Who shall pay for stamp.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 12, 1898.

SIR: This office is in receipt of a letter from Messrs. John J. and E. C. Horner, attorneys-at-law, Helena, Ark., bearing date of July 9, 1898. This letter deals with questions relating to the cotton business, and a brief résumé is hereby given. It states that all cotton brought to the city is delivered upon platforms of the compresses; that it is impossible to tell in any other way than by the party delivering the same whether it is an "agricultural product deposited by the actual grower thereof in the regular course of trade for sale" or not; that it is delivered to the platform of the compress. It is then weighed by a weigher appointed by the city, who gives a receipt showing the marks and weight of the bale of cotton, for which service a charge of 10 cents is made, which is paid into the city treasury for the purpose of defraying the cost of the weighing. This weigher's certificate is inclosed in the letter and marked "No. 1," and a copy of same is here given:

(1.)

TAG NO.— Bale ——.

Weigher's certificate for one bale cotton, Helena Compress.

For account of —— ——.

Hoops off..... —— Mark..... ——
Heads out..... —— Weight..... ——
Condition..... —— Reweight..... ——

L. BERTON, *City Weigher.*
Per —— ——.

The party who presents the cotton for weighing receives this receipt No. 1. When he desires a receipt from the compress company, he presents this weigher's certificate and a receipt is issued to him, a copy of which is inclosed and marked "No. 2." The following is a copy of said instrument:

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(2.)

HELENA, ARK., ——, 189—.

HELENA COMPRESS COMPANY.

Received from M—— ——, —— bales cotton to be stored. Marked as per margin.

HELENA COMPRESS COMPANY,
Per —— ——.

When the cotton is finally ready for compression and shipment, this weigher's certificate (No. 1) or the receipt issued in lieu thereof (No. 2) is presented to the compress company, and a receipt is issued for compress and shipment and the cotton goes to the carrier in the usual course of business. This receipt is inclosed and Marked "No. 3." The following is a copy of receipt No. 3:

(3.)

HELENA, ARK., ——, 189—.

Received by the HELENA COMPRESS COMPANY, from —— ——, —— bales cotton for compression only, and shipped as per instructions, marked as per margin.

Marks, ——.

No. bales, ——.

Risk by fire excepted.

HELENA COMPRESS COMPANY,
Per —— ——, *Clerk.*

The inquiry is made, Are these receipts taxable? Receipt No. 2 is, without doubt, taxable at the rate of 25 cents. Receipts No. 1 and No. 3 are not taxable unless under them the relationship of warehousemen is assumed. Receipt No. 3 states that it is a receipt "for compression only." If, after compression, the bale of cotton is left on storage and a charge is made for storage, and the only evidence of this storage is receipt No. 3, then it becomes a warehouse receipt and is taxable.

This office does not see how receipt No. 1 could become a receipt for storage; but if it is possible, and it does so become a receipt for storage, it is taxable as a warehouse receipt, the ruling of this office being that if the cotton is simply received for compression and shipment and no charge being made for storage, that the receipts evidencing this fact are not taxable.

This letter further states that cotton is received from all persons—actual producers, purchasers of cotton from actual producers, and others—and that it would be impossible for the warehouseman to know, except from the statement of the person presenting the cotton, whether it was actually produced by him or not, and Messrs. Horner inquire how is the warehouseman to know who is exempt under the clause "excepting actual producers?"

This office can not advise these gentlemen how to ascertain this fact. The law exempts agricultural products placed on storage by the actual grower thereof in the regular course of trade for sale. If these warehousemen accept cotton for storage from other than actual growers and

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do not give a warehouse receipt as required, they are liable under the provisions of this statute.

This inquiry is also made: Who is required to pay for stamps—the person to whom the receipt is issued, or the warehouseman?

This office can not decide this question. Its duty is to require these receipts to be stamped. The law requires the warehouseman to affix and cancel the stamp on all warehouse receipts which he issues and which are liable to stamp duty, and a penalty is prescribed if he does not do so. It is presumed from the law that he should pay the tax imposed, and if he does not do so and exacts the tax from the person storing the goods, etc., this office can afford no remedy.

In reference to receipt No. 1, and the fact that the weigher who gives it is appointed by the local authorities, this office holds that if this receipt is required by law to be given, it is taxable at the rate of 10 cents as a certificate. If not required by law to be given, it is exempt, as hereinbefore referred to.[1]

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. HARMON L. REMMEL, *Collector, Little Rock, Ar*

(20000.)

Stamp tax—Warehouse receipts.

Warehouse receipts for cold storage for preservation of perishable commodities not subject to taxation.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 2, 1898.

GENTLEMEN: Your letter to this office under date of August 26, 1898, is received and hereby acknowledged.

You state that you run a warehouse in connection with your business, storing for different people butter, cheese, eggs, beer, etc., in cold storage, and knit goods in cases in dry storage; that you understand the law to read that you must put a 25-cent stamp on every warehouse receipt issued. Many of your mills send you one or two cases per day on which the storage rate is 20 cents, and that, again, one of your customers sends you a case of eggs or a tub of butter, the storage being 10 cents for each, and that you are compelled to pay a war tax on an article the proceeds of which is 10 cents to you. You ask, Do you read the law correctly? If so, the law must be changed or you must go out of business.

In reply, you are informed that this office on July 20, 1898, made a ruling that where goods are stored for refrigeration only—perishable

[1] It is now ruled that the weigher's certificate is not taxable as a certificate, whether he acts in a public or private capacity.

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goods—that the receipt evidencing this storage is not subject to taxation.

The definition of a warehouse seems to be a place adapted to the reception of goods and merchandise to be held on storage, and it does not seem to this office that perishable goods are representative of such a storage. It would seem that commodities such as meats, vegetables, fruits, and the like are sent for preservation and not for storage. It may seem to be difficult to draw the line between these articles and the knit goods in cases in dry storage, of which you speak, yet there is a clear distinction.

You are advised that where the articles sent for storage are such articles as meat, vegetables, eggs, butter, etc., and they are sent not so much for storage and safe-keeping as they are sent for preservation, there is no tax imposed upon the receipt evidencing this kind of storage.

In regard to the knit goods, this office can not make the same ruling. They are not sent for preservation, as this office understands it, and, be the storage ever so small, the receipt evidencing the same is subject to taxation.

This office appreciates your position in regard to the prohibitory effect of this on your business, but can not alter or amend the law. If the knit goods were exempted from taxation, why not any goods? Therefore, this office can not go to the extent of exempting knit goods; neither can it say that the storage charged must exceed any certain amount before the receipt would become taxable. This office has said that when articles as above enumerated are sent for preservation, it is not considered to be such a storage requiring the receipt evidencing the same to be subject to a tax of 25 cents.

Your remedy, if there is any, in regard to the knit goods and like unperishable articles, is before some other determining power.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

THE STACEY WAREHOUSE COMPANY, *Little Falls, N. Y.*

WINES.

(See also LIQUORS.)

(19521.)

Stamp tax—Bottled wines.

The provision of the act of June 13, 1898, in Schedule B, imposing tax on wines bottled for sale, applies not only to native wines and to wines bottled in this country, but also to wines bottled in foreign countries and imported into the United States for sale.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 16, 1898.

GENTLEMEN: In reply to your letter of inquiry of the 11th instant, you are hereby advised that the provision of the act of June 13, 1898,

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in Schedule B, imposing a tax on "sparkling or other wines, when bottled for sale, upon each bottle containing one pint or less, one cent; upon each bottle containing more than one pint, two cents," applies not only to domestic wines and to wine bottled in this country, but also to wines bottled in foreign countries and imported into the United States and sold.

Section 24 of the act provides that—

Every person, except as otherwise provided in this act, who offers or exposes for sale any article or thing provided for in said Schedule B, whether the article so offered or exposed is of foreign manufacture and imported, or of domestic manufacture, shall be deemed the manufacturer thereof and shall be subject to all the taxes, liabilities, and penalties imposed by law for the sale of articles without the use of the proper stamp denoting the tax paid thereon; and all such articles of foreign manufacture shall, in addition to the import duty imposed on the same, be subject to the stamp tax prescribed in the act.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

CHAPIN, TRULL & CO., *New York, N. Y.*

(19735.)

Stamp tax—Wines.

Where a customer presents a bottle to be filled with wine, the bottle must be stamped when filled.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 20, 1898.

SIR: This office is in receipt of a letter from Talcott, Frisbie & Co., wholesale druggists in your city, inquiring whether in a case where a customer calls for a pint of wine, bringing his bottle with him to be filled, it must be stamped. * * * You will please advise them that in the case mentioned the bottle must be stamped.

Attention is called to the fact that no exception whatever is made by the law imposing a tax on wines when bottled for sale because of the ownership of the bottle or bottles containing the same, and no limit is fixed as to the number of bottles filled, offered for sale, or sold, to which stamps must be affixed. The fact that the customer brings the bottle with him will not, therefore, relieve it from the necessity of being properly stamped at the time when filled.

Any druggists, saloon keepers, grocers, or other dealers who do not usually handle cased goods, should understand that this ruling applies to sales of wine by the bottle, whether the dealer or the customer provides the bottle.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

MR. THOMAS A. LAKE, *Collector, Hartford, Conn.*

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(19896.)

Stamp tax—Wines.

Liability to stamp tax of wines bottled for private consumption of manufacturer, use of employees, and samples furnished to salesmen—Tax on a quart bottle may be paid with two 1-cent stamps.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 17, 1898.

SIR: This office is in receipt of a letter from A. Werner & Co., of 52 Warren street, in your district, making certain inquiries in regard to the new revenue law as it applies to bottled wines. * * * You will please inform them as follows:

1. Bottled wine removed from the premises for the private consumption of the manufacturer does not require stamps.

2. Wine bottled solely for the use of employees, furnished *gratis* and drunk by them on the premises, does not require stamps.

The foregoing answers are based on condition that the element of sale is wholly lacking.

3. Wine given to salesmen to be distributed by them as free samples among the trade must be stamped.

4. A quart bottle may be stamped with two 1-cent stamps.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

(19942.)

Stamp tax—Wines.

Wines bottled for storage in bins for aging purposes will not be regarded as having been "bottled for sale" until they arrive at a marketable condition—Wines sold by dealers and delivered in bottles must be stamped.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 23, 1898.

SIR: This office is in receipt of a letter from Luyties Brothers, of 19–21 North William street, in your city, in which they refer to the correspondence heretofore had by this office with Tysen & Totten in regard to the stamping of wines bottled and stored in bins for aging purposes.

Luyties Brothers represent that the better grades of imported wines are totally unsalable and unfit for use unless they remain in bottles for some time, say from six months to five years. These bottles must be kept in bins in vaults where the temperature is comparatively cool and even, and where the atmosphere is always damp, and consequently the stamps would not remain on the bottles, or, at best, they would become moldy and the print on them would become obliterated. Numerous other communications have been received from various representatives

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of the trade, in particular, a joint letter dated July 27, 1898, signed by Edinger Bros. & Jacobi and 13 other dealers, setting forth the hardship that would ensue if stamps are required to be affixed to bottles when filled for storage for aging purposes.

The attitude of this office in its relation to the taxpayer has always been in the direction of relieving the latter from unnecessary hardship so far as may be done consistently with the interests of the revenue, and in view of the representations made to me, and upon further consideration of the matter, I am inclined to modify a decision made July 5, 1898, to the extent of holding that when foreign or domestic wines are transferred from bulk packages to bottles in an immature state for storage in bins for a considerable length of time for aging purposes, the wine so transferred to bottles will not be regarded as having been "bottled for sale" until such time as it arrives at a marketable condition, and the stamping of the bottle may be deferred until then. As soon as the wines are in marketable condition the liability to tax at once attaches and the stamp must be affixed. The affixing of caps or labels to such bottles will be taken as conclusive evidence that they are "bottled for sale," and if the proper stamps have not been attached prior to that time, the bottle must be stamped without fail when the caps and labels are affixed.

You will please inform the parties interested accordingly.

In the latter part of their letter, Luyties Brothers inquire whether, after they have sold a cask of wine to a private party who has made payment for the same, they may at the request of the purchaser bottle the wine in pint or quart bottles and deliver them to the purchaser without stamping.

You will please inform the parties that in the case cited this office can not undertake to inquire whether the sale of the wine was made before or after it was transferred to the bottles, as any attempt to make a distinction in this regard would result in injury to the revenue. Where wines are sold by dealers and delivered in bottles, it will be presumed that they were "bottled for sale" within the meaning of the law, and they must be stamped accordingly.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CHAS. H. TREAT, *Collector Second District, New York, N. Y.*

(19961.)

Stamp tax—Wines.

Digest of rulings relating to tax under war-revenue law on sparkling or other wines when bottled for sale.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 24, 1898.

SIR: This office is in receipt of a letter from Mr. W. W. Walker, wholesale liquor dealer and dealer in imported cordials, wines, etc., at

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Hagerstown, in your district, asking for a copy of a circular from which he may be able to ascertain what goods in his line are subject to the "special war tax."

* * * You will please inform him that the war-revenue law imposes a tax on sparkling and other wines, when bottled for sale, of 1 cent on each bottle containing a pint or less, and 2 cents on each bottle containing more than one pint. The value of the stamp must correspond with the size or capacity of the bottle used to contain the wine.

Stamps must be affixed to domestic as well as imported wines. In the case of domestic wines, the stamp is to be affixed when the wines are transferred to the bottles for sale by the person who makes the transfer. In the case of imported wines, the bottles, unless previously stamped, must be stamped by the importer after the same are removed from the custom-house and immediately upon their removal to the premises or warehouse of the importer.

Foreign wines in bottles may be stamped abroad. The stamps may be canceled by the importer before he sends them abroad, or they may be canceled at the time they are affixed to the bottles.

Demijohns and jugs containing wine exposed for sale, which are manifestly substitutes for uncovered bottles, will be considered as bottles, and must be stamped accordingly. The fact that small bottles used for containing wine are surrounded with wickerwork or are composed of earthen or stone ware with a handle attached will not relieve them from liability to the tax imposed by the new law; but jugs or demijohns containing a gallon or upward, filled from packages containing wines in bulk for delivery as orders arise, would not be considered as bottles within the meaning of the law. In general, it may be said that kettles, pitchers, demijohns, and jugs containing wine do not require stamps, unless these vessels are of such size and material as show them to be used as bottles or substitutes for bottles for the purpose of evading the tax, in which case they must be stamped.

The unfermented juice of the grape, whether bottled or not, is not subject to taxation and need not be stamped.

The presence or absence of a label or seal on bottled wines is not material to the question of taxability.

Where a retail dealer fills a bottle from a barrel for his bar stock, from which he sells wine by the glass, he is not required to stamp the bottle. Bottles of wine sold at retail over the bar are taxable and must be stamped.

The stamping of bottles of wine which were on hand on July 1, 1898, in the hands of wholesale or retail dealers not the manufacturers thereof, may be deferred until the time when the bottle, with its contents, is sold at retail.

Liquor not known and used as wine, the principal ingredient of which is not wine, does not require to be stamped unless it is held out or recommended to the public by the makers, venders, or proprietors thereof as a proprietary medicine or medicinal proprietary article or

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preparation, or as a remedy or specific for any disease. This ruling applies to liqueurs, cordials, crêmes, and the like, such as "Maraschino," "Curaçoa," "Crême de Menthe," etc.

Where vermuth is bottled as such, for sale, as its basis or principal ingredient is wine, the fact that other ingredients are added does not take it from the category of wines, at least for the purposes of internal revenue taxation. Where vermuth is held out or recommended to the public, by statements appearing on the label or otherwise, as a proprietary medicine or as a remedy or specific for any disease, it is taxable as a proprietary medicine under Schedule B, and must be stamped accordingly.

Where a customer calls for a pint of wine, bringing his bottle with him to be filled, the bottle must be stamped. Where the dealer who sells the wine furnishes the bottle, it must be stamped. Flasks are considered as bottles and must be stamped accordingly.

Wines produced from native mustang grapes must be stamped when bottled for sale.

A farmer who grows his own grapes and produces wine, which he bottles for sale, must stamp the same. Under the provisions of section 3246, Revised Statutes, as amended, however, vintners who sell wine of their own growth, or manufacturers who sell wine produced from grapes grown by others at the place where the same is made, or at the general office of such vintner or manufacturer, are relieved from the payment of *special tax as dealers* on account of such sales, on condition, however, that no vintner or manufacturer shall have more than one office for the sale of such wine that shall be exempt from special tax.

The tax applies to all wine bottled for sale, without regard to the purpose for which it is to be used and without regard to the length of time during which it is exposed for sale.

It is not necessary that the stamps should be placed over the cork or over the mouth of the bottle, except in cases where stamps imprinted from private dies are used under the provisions of section 9 of the act of June 13, 1898.

An ordinary revenue stamp canceled with the date when it is affixed and the initials of the person using or affixing the same may be attached to any conspicuous part of the bottle.

Wines transferred to bottles by restaurant keepers and served by the bottle with meals furnished by them must be stamped.

In the case of genuine sparkling wines or champagnes put up in bottles and undergoing the natural process of development, during which they require considerable manipulation before arriving at a finished state, the stamping of the bottles may be postponed until such time as the wine arrives at a marketable condition. As soon as the wines are in such condition the liability to tax at once attaches and the stamp must be affixed. The affixing of caps or labels to such bottles will be taken as conclusive evidence that they are "bottled for sale," and if the

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proper stamps have not been attached prior to that time the bottle must be stamped without fail when the caps and labels are affixed.

The foregoing ruling has been extended so as to apply to foreign or domestic wines (other than sparkling) transferred from bulk packages to bottles in an immature state for storage in bins for a considerable length of time for aging purposes, the wine so transferred not being regarded as having been "bottled for sale" until such time as it arrives at a marketable condition.

Where wines are sold by dealers and delivered in bottles, it will be presumed that they were "bottled for sale" within the meaning of the law, and they must be stamped accordingly.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. F. PARLETT, *Collector Internal Revenue. Baltimore, Md.*

(20152.)

Special tax—Wines.

A tax is imposed on wine (Schedule B, act of June 13, 1898), namely, "Sparkling or other wines, when bottled for sale, upon each bottle containing one pint or less, one cent. Upon each bottle containing more than one pint, two cents"—When vintners are exempt from special tax—Provisions of United States laws do not interfere in any way with the provisions of the State laws or local ordinances.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 5, 1898.

SIR: The Secretary of the Interior has referred to this Department your letter inquiring as to the law "regulating the manufacture and sale of domestic wine." The only provisions of the United States laws which impose a tax on wine are the following in Schedule B of the act of June 13, 1898, namely:

Sparkling or other wines, when bottled for sale, upon each bottle containing one pint or less, one cent. Upon each bottle containing more than one pint, two cents.

As to the special tax which persons are required to pay as liquor dealers for selling wine, you are referred to the following exempting provision in section 3246, Revised States, as amended:

Nothing in this chapter shall be construed to impose a special tax upon vintners who sell wine of their own growth, or manufacturers who sell wine produced from grapes grown by others, at the place where the same is made or at the general business office of such vintner or manufacturer: *Provided*, That no vintner or manufacturer shall have more than one office for the sale of such wine that shall be exempt from special tax under this act.

These provisions of the United States laws do not interfere in any way with the provisions of the State laws or local ordinances regulating

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the sale of domestic or other wines. For information as to such laws, you should, of course, apply to the State or local authorities. * * *

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. CLAUDE HERNE, *Bay City, Mich.*

(20159.)

Stamps—Bottled wine.

Stamps on bottled wine which failed of delivery by reason of imperfections discovered in the wine can not be reused.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 10, 1898.

SIR: This office is in receipt of a letter from the Genesee Valley Wine Company, having an office at 713–714 Powers Building, in your city, who inquire whether, in case where they sell bottled wine to a customer which is returned to them either before or after the customer receives it, because of imperfection discovered in the wine which renders it necessary to dump the bottles containing the same, the stamps may be removed and used on other bottles. In case also where the wine has never left the cellar of the producer, but is required to be dumped on account of imperfections discovered, they inquire whether the stamps can be removed and used on other bottles.

These parties have been referred to you for reply, and you will please inform them that where stamps have once been affixed to bottles of wine and canceled in compliance with the law in that particular, they can never be legally detached therefrom and affixed to other bottles.

The statute imposes severe penalties for the reuse of stamps, and this office can not sanction their reuse in any case. Any expense resulting to the producers of wine under the circumstances cited, by reason of loss on stamps covering wine which failed of delivery, must be regarded as one of the incidents of the business.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr VALENTINE FLECKENSTEIN,
Collector Twenty-eighth District, Rochester, N. Y.

(20205.)

Stamp tax—Wines.

Bottled wines "presented" to individuals not exempt from tax—Liability of bottled wines given ostensibly for charitable purposes depends upon circumstances of each case.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C, October 18, 1898.

SIR: This office is in receipt of a letter from Mr. A. M. Smith, of 249 Hennepin avenue, Minneapolis, asking to be advised whether bottled

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wines presented by him to "hospitals, individuals, or for charitable purposes, without any remuneration, are liable to the war-revenue stamp tax." Mr. Smith contends that he does not bottle these wines for sale, but simply for presentation, free of charge, to such parties as he may elect.

* * * You will please inform him that this office has held that bottled wines must bear the stamps required by law, even in cases where the element of sale is nominally lacking, as in case of free samples given away for advertising purposes. In view of this ruling, this office can not make any exception in favor of wines "presented" to individuals.

In case of gifts ostensibly for charitable purposes the liability or nonliability would depend upon the circumstances of each particular case. This office can not lay down a general rule which will satisfactorily cover the matter. Where wine in unstamped bottles is donated to charitable institutions, if the circumstances are such as to fairly indicate that the element of personal profit and of business advertisement is wholly wanting, it is probable that action would not be taken for failure to stamp the bottles. Such a transaction is, however, always open to question, and in such case the burden of proof would doubtless rest upon the party claiming the exemption, where the failure to stamp the wine was accounted for on the grounds of a pure charity.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. FREDERICK VON BAUMBACH,
Collector Internal Revenue, St. Paul, Minn.

WRITS AND PROCESSES OF COURTS.

(19971.)

Stamp tax—Writs and processes and copies thereof.

Writs and processes of State courts exempt from taxation—Copies thereof are also exempt.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 29, 1898.

SIR: I have the honor to acknowledge receipt of your communication of July 24, 1898.

You state that Mr. A. F. Nuquist, sheriff of Polk County, Nebr., said county being a part of your Congressional district, requests information as to the liability to taxation, under the clause relating to "certificates of any description required by law not otherwise specified in this act," of a number of instruments, copies of which are submitted.

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The instruments submitted by Mr. Nuquist are a number of writs and processes used in the courts of the State of Nebraska.

The statutes of your State provide that the service of these judicial processes shall be by delivering a copy of the process, either personally on the party for whom it is intended, or by leaving it at his usual place of residence, etc.

The sheriff certifies in the original that he left a certified copy of the original at ———, or served it on ———. In the copy he certifies that it is a true copy of the original placed in his hands for service. The question is, Do the certified copies of judicial processes require to be stamped?

By the act of Congress, July 1, 1862, legal documents such as writs, warrants, and cognovits were made subject to taxation, and at a very early period after the passage of that act the question arose in the courts of several of the States as to the validity of the requirement, and although the plenary power of Congress to raise a revenue to meet the wants of the Government by the imposition and collection of taxes, duties, imposts, and excises was admitted, no reasoning urged in support of the general power was regarded as sufficient to establish the power of Congress to impose a tax upon the writs and processes of State courts. (McCulloch *v.* State of Maryland, 4 Wheaton, 316.)

This provision in the law was repealed on the above ground on March 2, 1867, and this office holds that as the original processes could not be held to be taxable that the copy should not be.

It will be observed, you say, that nowhere in the sections quoted by you—sections 2459, 2473, 5661, and 6486, Compiled Statutes of Nebraska, edition of 1897—is the requirement plain, certain, and specific that it requires a certified copy, a copy being sufficient.

Construing these instruments under the above conditions, you are advised that none of the following are subject to taxation:

Summons for jury, district court, original.
Summons for jury, district court.
Summons, district court, copy.
Summons, district court, original.
Subpœna in civil case, copy.
Subpœna in civil case (original), district court.
Subpœna in criminal case, copy.
Subpœna in criminal case (original), district court.
Subpœna in civil case (original), county court.
Term summons, county court, copy.
Term summons, county court, original.
Summons, county court, copy.
Summons, county court, original.
Subpœna in criminal case, copy.
Subpœna in criminal case, original.
Summons, copy.
Summons, justice of the peace, original.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Hon. W. L. STARK, *House of Representatives, Washington, D. C.*

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APPENDIX.

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DIGEST OF RULINGS UNDER ACT OF JUNE 13, 1898.

(10843.)

Special taxes.

[Internal Revenue Circular No. 508.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 8, 1898.

The following rulings in regard to special taxes are published for the information of officers of internal revenue and parties interested:

SPECIAL TAX RULINGS.

Banks.

* * * * * * *

2. Private banks having no capital stock are subject to tax as bankers.

3. In computing special tax of banks whose capital exceeds $25,000, if excess is less than $1,000, it is not to be considered.

4. In estimating the amount of special tax to be paid by a bank, based upon capital and surplus, the amount invested in United States bonds is not to be deducted.

5. The amount invested by a bank in the bank building is not to be deducted from capital and surplus.

6. A bank in liquidation, doing no business except collecting and dividing assets in closing, is not required to pay special tax.

7. A bank engaged in business in the month of July must pay special tax for the entire year beginning July 1, 1898.

8. A trust company is liable as a banker if it comes within any one of the three clauses of definition in paragraph 1, section 2 of the act, viz:

Every person, firm, or company, and every incorporated or other bank, having a place of business where credits are opened by the deposit or collection of money or currency, subject to be paid or remitted upon draft, check, or order, or where money is advanced or loaned on stocks, bonds, bullion, bills of exchange, or promissory notes, or where stocks, bonds, bullion, bills of exchange, or promissory notes are received for discount or sale.

9. Borrowed capital must be taken into account when estimating amount of special tax required from bankers.

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10. It is not the subscribed capital, but the capital actually employed during the preceding fiscal year, that is to be taken as the basis for estimating the special tax required to be paid.

Brokers.

11. The loaning of money for oneself or for others, on commission, does not subject the lender to special tax as a broker; but if a person makes it a business to negotiate purchases or sales of stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities, for himself or others, he is required to pay the special tax as a broker. "It is only when making sales and purchases is his business, his trade, his profession, his means of getting his living, or making his fortune, that he becomes a broker within the meaning of the statute." (Warren *et al. v.* Shook, 91 U. S., 704.)

12. Persons or firms acting as agents for resident or nonresident parties, loaning money upon promissory notes, secured by mortgages, are not brokers within the meaning of the act, and are not liable to the special tax provided for brokers.

13. A lawyer can make investments for clients without being liable, unless he does it to such an extent that it can be called a "business."

14. Loan and mortgage companies are not liable as brokers for loaning money on notes or bonds secured by mortgage or trust deed on real estate. If they purchase notes, bonds, or other securities, they become liable as brokers.

15. Persons whose practice it is to buy fee bills of witnesses are not brokers. Such paper is not properly described by any of the terms used in the law, to wit, "stocks, bonds, exchange, bullion, coined money, bank notes, promissory notes, or other securities."

16. A person engaged in the business of placing loans which are secured by notes and mortgages upon real estate, acting simply as agent for the party furnishing the money, receiving a commission for his services in obtaining the application for the loan and attending to the execution of the papers, is not a broker.

17. A person engaged in the business of selling real estate, acting as the agent of the owner in finding purchasers and receiving a commission for his services, is not a broker.

18. When persons "shave notes" or negotiable purchases or sales of promissory notes, if these are only occasional acts and do not constitute their regular business, they are not brokers within the meaning of the act.

19. Bucket shop proprietors giving memorandum of transactions are required to pay special tax as brokers.

20. If an agent transacts the general business of a broker for the principal, paying over moneys to the customers, etc., the special tax of $50 must be paid for the place where the business is done, and the requisite stamp posted up therein.

This tax may be paid by the principal himself and the stamp taken

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out in his name (which is preferable) or it may be paid by the agent and the stamp taken out in his name.

The principal's special-tax stamp for his place of business in another city covers the transactions only at that place of business and can not cover the business done elsewhere at a branch office.

21. Broker's tax is not required to be paid at branch offices where a clerk is employed whose sole duty is to receive orders and transmit them by wire to the head of the office. The mere receipt and transmission by clerks of orders is not regarded as the carrying on the business of a broker.

Commercial brokers.

22. Commercial brokers, within the meaning of the act, are those persons only who, without having in their possession goods, wares, or merchandise, negotiate sales or purchases thereof on commission, or who "negotiate freights or other business for the owners of vessels or for the shippers or consignors or consignees of freight carried by vessels."

23. Commission merchants who receive goods in possession to sell for others are not commercial brokers within the meaning of the statute.

24. Cattle brokers, who receive and sell cattle on commission, are not required to pay special tax as commercial brokers.

25. A person who is employed by certain firms to solicit and receive orders, on commission, for their goods, and is bound by his agreement with them to give his entire services to them to the exclusion of other firms or persons, is not regarded as a commercial broker within the meaning and intent of the law.

26. Warehousemen who receive tobacco, cotton, or any other produce or goods on consignment, for sale on commission, are not liable as commercial brokers.

27. Auctioneers who receive and sell goods at their auction rooms or on the premises of the owners, on commission, are not subject to special tax as commercial brokers.

28. Drug brokers are properly included under the head of commercial brokers and are subject to the special tax of $20.

29. If cotton buyers have possession of cotton which they sell, they are not liable as commercial brokers. If they have not, and sell on commission, they are liable.

Pawnbrokers.

30. A person is not required to pay a special tax as a pawnbroker for rare or occasional acts which can not be regarded as his business or occupation.

Custom-house brokers.

31. If the complete business of custom-house brokers is transacted by parties at offices at different ports of one district, a separate and

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distinct special tax must be paid for each of their offices, under the provisions of section 3235, Revised Statutes, which apply as well to special taxes under the war-revenue act as to all other special taxes.

Billiards.

32. Social clubs open only to members are not required to pay special tax on billiard tables, but if liquor is sold to members they are liable to special tax as retail liquor dealers.

Theaters, museums, etc.

33. Persons are not required to pay special tax for the mere occasional renting of their hall for public performances to dramatic companies or other persons charging entrance money therefor, but the special tax of $10 is required to be paid by such persons or companies if they give dramatic performances or the other exhibitions specifically mentioned in paragraph 8, section 2, of the act.

34. Where theaters are entirely closed to performances during the months of July and August, and only open in the month of September, the special tax is to be reckoned from the 1st day of September to the 1st day of July following, at the rate of $100 for the year beginning July 1.

Circuses and theatrical performances.

35. Exhibitions of feats of horsemanship (such as are seen in circuses) which occur on race tracks are subject to a special tax of $100; but mere tests of speed of horses in racing are not regarded as "feats of horsemanship" within the meaning of paragraph 7 of section 2, act of June 13, 1898.

* * * * * * *

37. When a circus is exhibiting in any State in the month of July, the special tax of $100 is required to be paid for the year beginning July 1. If in the following month the circus goes into another State, the special tax at the rate of $100 for the year is to be reckoned from the 1st day of August to the 1st day of July following, and a separate special-tax stamp must be taken out accordingly for that State, and so on.

38. The "theatrical peformances" contemplated by paragraph 7, section 2, of the act of June 13, 1898, are only those which are given in connection with a circus. A theatrical company, therefore, merely playing dramas in towns of 25,000 inhabitants (as shown by the last census) or less, or in buildings whose proprietors do not hold the $100 special-tax stamp, is required to pay special tax under paragraph 8, viz, $10 for each State for the special-tax year, if the liability begins in the month of July, and at that rate when the liability begins in any other month than July.

39. Agricultural associations are required to pay a special tax at rate of $10 for exhibitions, including horse racing.

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Exhibitions of speed of horses on race track do not constitute circus.

40. Exhibitions and shows given on fair grounds, but not under management and control of the fair association holding special-tax stamp, are required to pay separate special tax.

Public exhibitions or shows.

41. A lecturer using a stereopticon to illustrate his lectures, and charging an admission fee, is liable to the special tax of $10 on a public exhibition or show for money.

42. If an exhibition is given in more than one State, the law requires payment of special tax for every such State, and that a separate stamp shall be taken out for each State.

43. The ordinary church or Sunday-school entertainment, without any hired performers, does not come under the head of public exhibitions or shows for money contemplated by the law.

44. Amateur theatrical exhibitions, either in private houses or licensed public halls, for church or charitable benefits, are not such performances as are subject to tax.

45. Concert gardens where no admission is charged, but where beer and other drinks are sold and concerts or theatrical performances are given, are within the meaning of paragraph 8 of section 2 of the act, and the special tax of $10 must be paid therefor. * * *

46. Exhibitions of Edison's kinetoscopes require payment of a special tax of $10 in each State where such exhibitions are had.

47. A special-tax stamp can not be transferred to a successor in business, except that in case of death, the wife, child, executor, administrator, or legal representative may carry on the business until the year expires, in the same house and upon the same premises, without payment of any additional tax. In cases where a firm composed of two or more members is dissolved, one or more members of the firm can carry on the business without securing a new special-tax stamp, but the change of the personnel of the firm should be registered with the collector. If a new member is admitted into the firm, a new special-tax stamp is required. There is no provision of law under which any refund can be made on account of the discontinuing of business prior to the close of the special-tax year.

48. Section 31 of the act of June 13, 1898, provides that "all administrative, special or stamp provisions of law, including the laws in relation to the assessment of taxes, not heretofore specifically repealed, are hereby made applicable to this act."

Collectors will proceed as provided in section 3176, Revised Statutes, as amended, in case of neglect or refusal to make return, or in case of false or fraudulent returns.

N. B. SCOTT, *Commissioner.*

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(20323.)

Stamp taxes.

[Internal Revenue Circular No. 503—Revised.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 14, 1898.

The attention of collectors and other officers of internal revenue is called to the provisions of the act of June 13, 1898, in regard to stamps required on certain instruments, papers, and documents on and after July 1, 1898, enumerated under Schedule A.

Stamp duties on and after July 1, 1898.

SCHEDULE A.—*Documentary.*

1. Bonds, debentures, or certificates of indebtedness of any association, company, or corporation, on each $100 of face value or fraction thereof	$0.05
2. On each original issue of certificates of stock, whether on organization or reorganization, on each $100 of face value or fraction thereof	.05
On all sales, agreements to sell, memoranda of sales, deliveries or transfers of shares, or certificates of stock of any association or corporation, on each $100 of face value or fraction thereof	.02
3. Upon each sale, agreement to sell, or agreement of sale of any products or merchandise at any exchange or board of trade, or other similar place, either for present or future delivery, for each $100 in value of said sale..	.01
And for each $100, or fractional part thereof in excess of $100.....	.01
4. Bank check, draft, certificate of deposit not drawing interest, or order for the payment of any sum of money drawn upon or issued by any bank, trust company, or any person or persons, companies, or corporations, at sight or on demand	.02
5. Bill of exchange (inland), draft, certificate of deposit drawing interest, or order for payment of any sum of money otherwise than at sight or on demand, or any promissory note, except bank notes issued for circulation, and for each renewal of same, for a sum not exceeding $100	.02
And for each additional $100, or fractional part thereof in excess of $100.. (This clause applies to money orders issued by the Government.)	.02
6. Bill of exchange (foreign), or letter of credit (including orders by telegraph, or otherwise, issued by express or other companies, or any person or persons), drawn in, but payable out of, the United States, drawn singly or otherwise than in sets of three or more, for not exceeding $100.	.04
And for each additional $100, or fractional part thereof in excess of $100..	.04
If drawn in sets of two or more, for every bill of each set for a sum not exceeding $100, or its equivalent in foreign currency, value fixed by the United States standard	.02
For each additional $100, or fractional part thereof in excess of $100.....	.02
7. Bills of lading or receipt (other than charter party), for goods, etc., to be exported	.10
8. Bills of lading, manifests, etc., issued by express companies, or public carriers, etc., a stamp to each, and to each duplicate thereof, of the value of.	.01
9. Bond, indemnifying, etc., and all other bonds of any description, except those required in legal proceedings, not otherwise provided for	.50
10. Certificates of profits, or certificates or memoranda showing interest in the property or accumulations of any association, company, or corporation, and all transfers thereof, on each $100 of face value or fraction thereof	.02
11. Certificate of damage or otherwise, and all other certificates or documents issued by port warden or marine surveyor	.25
12. Certificates of any description required by law not otherwise specified in act	.10
13. Charter party, contract, or agreement for the charter of any ship, vessel, or steamer, or any renewal or transfer thereof, for every ship not exceeding 300 tonnage	3.00
More than 300 and not exceeding 600 tonnage.....	5.00
More than 600 tonnage	10.00

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14. Contract, broker's note, or memoranda of sale of goods, or merchandise, stock, bonds, exchange, notes of hand, real estate, or property of any kind, issued by brokers, etc., for each note or memorandum of sale not otherwise provided for in act $0.10

15. Conveyance-deed, instrument or writing conveying lands, tenements, or other realty, etc., value over $100 and not exceeding $500 ..... .50
For each additional $500 or fraction thereof ..... .50

16. Dispatch, telegraphic, on each message ..... .01

17. Entry of goods, wares, and merchandise in custom-house, not exceeding $100 in value ..... .25
Exceeding $100 and not exceeding $500 ..... .50
Exceeding $500 in value 1.00
Entry for withdrawal of goods or merchandise from customs bonded warehouse ..... .50

18. Insurance, life, on every policy, except any fraternal beneficiary society or order, for each $100 or fractional part thereof on the amount insured ... .08
Industrial or weekly-payment plan, the tax is 40 per centum of the amount of the first weekly premium, as to which sworn statement is required to be made to the collector of the total amount of first weekly premiums received on policies issued during preceding month.

19. Insurance, marine, inland, and fire (except purely cooperative or mutual), on each policy, or renewal, on amount of premium charged on each $1 or fractional part ..... .00½

20. Insurance, casualty, fidelity, and guarantee, on each policy, on each $1 or fractional part thereof of premium received ..... .00½
(Every assignment or transfer of all policies of insurance subject to tax. See paragraph relating to mortgages.)

21. Lease, agreement, memorandum, or contract for the hire, use, or rent of land or tenement, not exceeding one year ..... .25
Exceeding one year and not exceeding three years ..... .50
If exceeding three years 1.00
(Every assignment or transfer subject to tax. See paragraph relating to mortgages.)

22. Manifest for custom-house entry or clearance of cargo of any ship, vessel, or steamer for a foreign port, registered tonnage not exceeding 300 tons .. 1.00
Exceeding 300 tons and not exceeding 600 tons 3.00
Exceeding 600 tons 5.00
(Does not apply to vessels plying between ports of United States and ports in British North America.)

23. Mortgage of lands, estate, or property, real or personal, heritable or movable, made as security for payment of definite sum of money, also any conveyance of lands, estate, or property whatsoever, as security, exceeding $1,000 and not more than $1,500 ..... .25
On each $500 or fractional part in excess of $1,500 ..... .25
(Same as above in all assignments or transfers.)

24. Passage tickets by any vessel from the United States to a foreign port, costing not exceeding $30 ..... 1.00
More than $30 and not exceeding $60 ..... 3.00
More than $60 ..... 5.00

25. Power of attorney or proxy for voting at an election for officers of any incorporated company or association, except religious, charitable, literary, or public cemeteries ..... .10

26. Power of attorney to sell and convey real estate or to rent or lease the same, to collect or receive rent, to sell or transfer stock, bonds, etc ..... .25
(Papers used in the collection of pension, back pay, or bounty claims, or claims for property lost in military or naval service are exempt.)

27. Protest: Upon the protest of every note, bill of exchange, acceptance, check, or draft, or any marine protest ..... .25

28. Pledge of lands, estate, or property, real or personal, heritable or movable, made as security for payment of definite sum of money, also any conveyance of lands, estate, or property whatsoever, as security, exceeding $1,000 and not more than $1,500 ..... .25
On each $500 or fractional part in excess of $1,500 ..... .25
(Same as above in all assignments or transfers.)

29. Every renewal or continuance of any agreement, contract, or charter by letter or otherwise, same stamp duty paid as that imposed on the original instrument.

30. Sleeping car, berths in, or seats in palace or parlor cars: On every berth and on every seat sold ..... .01
(Not included in Schedule A.)

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31. Telephone messages: Every person, firm, or corporation operating any telephone line or lines is required to make, within the first fifteen days of each month, a sworn statement to the collector of the number of messages or conversations transmitted over their lines during preceding month for which a charge of 15 cents or more was imposed, and for each of such messages or conversations to pay a tax of $0.01

32. Warehouse receipt for goods, merchandise, or property held on storage, except agricultural products deposited by actual grower..... .25

RULINGS.

Administration, letters of.

1. Letters of administration, testamentary, or of guardianship do not require stamps. Petitions for appointment of administrators, executors, or guardians require no stamp.

Affidavits.

2. No stamp is required on affidavits.

Bills of lading.

3. Bills of lading for the export of goods, if made out in sets of two, each having equal value, and each being considered an original bill, both should be stamped.

4. Where a tax of 10 cents is paid on the bill of lading for goods exported, it is held that no stamp tax is required to be paid on copies of such bills of lading.

5. On inland bills of lading "each duplicate" requires "a stamp of the value of 1 cent."

6. Bills of lading for exportations by railroad to British North America require a 10-cent stamp.

7. A wharf receipt given to a shipper, in exchange for which a bill of lading is issued, does not require a stamp.

8. It is the duty of carriers to issue a bill of lading or receipt for goods accepted by them for shipment, and to affix the stamp, and a penalty is prescribed for failure to do so (see decision 19803, p. 30).

Bill of sale of a vessel.

9. There is no tax upon the bill of sale of a vessel. A mortgage of a vessel requires a stamp as a mortgage of personal property.

Bonds.

10. Bonds of brewers, manufacturers of oleomargarine, manufacturers of tobacco, manufacturers of cigars, distiller's annual, distiller's warehousing, transportation and export bonds, are required to be stamped. Where these bonds are required by law to be made in duplicate or triplicate, each must be stamped. Copies of distiller's bonds forwarded to this office for office use need not be stamped.

11. Where a surety company is surety on these bonds, the tax is one-half of 1 cent on each dollar of premium in addition to the 50-cent tax

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on the bond. The stamp representing this amount should be placed on the original bond, and on the duplicates and triplicates a memorandum can be made stating that this tax has been paid by stamp attached to the original bond.

12. A bond filed by order of court to obtain a decree or order for the sale of real estate is a bond given in a legal proceeding, and is exempt from tax.

13. Bonds given by public officers, such as sheriffs, clerks, registers or recorders of deeds, treasurers of counties, cities, or towns, or other public officers of like character, are required to be stamped.

14. Mere agreements to build houses are not taxable, but if bonds are included for the faithful performance of work or contracts they are held to be subject to tax as bonds.

15. Bonds issued by guaranty companies in Canada, guaranteeing the fidelity of employees, of individuals, or corporations in the United States, executed and delivered in Canada, are not taxable, but if they are not valid until countersigned or delivered by the agent in the United States they should be stamped.

16. Marriage bond requires a stamp of 50 cents.

17. Where a bond is given with a guaranty company as surety, the bond should have, in addition to a 50-cent stamp, as required under the head of "Bond," in Schedule A, a stamp denoting one-half of 1 cent on each dollar or fractional part thereof paid by the principal obligor on the bond as a premium, under that paragraph of Schedule A relating to guaranty companies. (United States officers required to give bond will take notice.)

18. Bonds "required in legal proceedings" are exempt from stamp tax. They are such as are required in litigation in either civil or criminal cases, such as prosecution bonds, injunction bonds, bonds to stay proceedings, bonds upon appeal, writs of error, bonds for costs, and the like; and in criminal cases, recognizances, bonds for appearance, bail bonds, and also bonds in criminal cases upon appeal and writs of error, supersedeas bonds, etc. Bonds given by persons appointed by the court, conditioned for the faithful performance of the duties of their office or position, such as receivers, assignees, executors, administrators, and guardians, are exempt.

Broker's note.

19. "Broker's note, or memorandum of sale of any goods or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind or description issued by brokers or persons acting as such, for each note or memorandum of sale, *not otherwise provided for* in this act, ten cents." Sales of shares of stock are elsewhere provided for, and the tax on same is 2 cents per $100 of face value.

20. The original note or memorandum of sale is alone subject to the tax of 10 cents when made by a broker or one acting as such, and the

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tax is payable by said broker or one acting as such; the duplicate or the copy of the original memorandum of sale is not taxed.

21. A mere memorandum, accompanying an offer to purchase, is subject to the tax only provided the offer is accepted, and should be stamped by the broker on the acceptance of the offer.

22. A statement of account showing the receipts and disbursements in connection with a sale, and not being the contract of sale, does not require a stamp.

23. A broker's memorandum of sale of promissory notes ("notes of hand") requires the 10-cent stamp.

Building and loan associations.

24. The exemption granted to cooperative building and loan associations, etc., loaning money only to their own shareholders, extends to any papers or instruments (otherwise taxable) executed by such associations, or any such papers and instruments made or executed by the shareholders to the associations in dealing with the associations and within the limits of their legitimate operations, and are exempt from stamp tax, except that checks or drafts given by such associations or by the shareholders are subject to the tax.

Certificates.

25. Certificates required by law issued by any Department or officer of the Government at the request of private persons, solely for private use, should be stamped. The stamp should be furnished by the person applying for the instrument and for whose use and benefit the same is issued, and should be affixed before the document is delivered.

26. Certificates of officers of the United States, given in the discharge of official functions necessary in carrying on the machinery of the Government, are exempt.

27. Certificates issued by an officer of the State, in the interest of the State, are not liable to tax.

28. Any documents the stamping of which would make it necessary that the State should furnish and affix the stamp are held to be exempt from the stamp tax.

29. Return of birth, certificate of death, and certificates of the registrar as to the facts declared concerning birth, marriage, and death are none of them held to be subject to the stamp tax imposed upon certificates, in view of the fact that these certificates are given in pursuance of State laws for public purposes.

30. Certificates issued by the health officer of New York, under State statute, relative to the employment of children, are exempt, being issued in the discharge of a duty connected with the operations of the Government.

31. A marriage certificate, to be returned to any officer of a State, county, city, or town, to constitute part of a public record, requires no

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stamp. A marriage certificate issued by the officiating clergyman or magistrate and given to the parties, if required by law, must be stamped at the rate of 10 cents.

32. A teacher's certificate issued by a county superintendent of public instruction or other officer of State, county, or municipality comes within the exemption provided by section 17 of the act, and does not require a stamp. These certificates, given under regulations adopted in connection with public schools, are held to be for governmental purposes rather than for private use.

33. A mercantile license or liquor dealer's license, being a certificate required by the laws of a State or ordinance of a city in the exercise of the functions governmental, taxing, or municipal of the State or corporations, comes within the exemption.

34. Inspectors and weighers of grain, who give certificates under State laws, are not required to stamp such certificates. They are exempt under section 17.

35. No stamp is required upon certificates of the sufficiency of sureties upon bonds.

36. A stamp is required on a certificate of incorporation.

37. The certificate of a clerk of court to the qualifications of a notary public, or justice of the peace, is held to be a certificate requiring a stamp.

38. An architect's certificate requires no stamp, unless, by an indorsement, it becomes an order for the payment of money.

39. Certificates issued at tax sale or certificates of redemption from tax sale do not require stamps.

40. Certificates of "proof of loss" for use of an insurance company, being a statement made as to the facts and circumstances attending a fire, is not a certificate requiring a stamp.

41. Certificates required by law, which are made by court officers under the direction and authority of the court, and which are necessary to give proper effect to the court proceedings, are exempt.

42. Court processes, such as summonses, writs of attachment, subpœnas, warrants, orders of court, etc., are not required to be stamped.

43. Certificates of protest of every note, bill of exchange, etc., whether protested by a notary public or by any other officer duly authorized by law, must be stamped.

44. "Certificates of any description required by law not otherwise specified in this act, ten cents." The first requirement necessary to subject any given certificate thus generally described to tax is that it shall be one which is required to be given by law, national, State, or municipal. All such are taxable, except those coming within the exemption of section 17—that is to say, those which are given strictly in the exercise of the functions—governmental, taxing, or municipal—of the State or corporation.

Certificates given by an officer, not for a public or governmental pur-

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pose, but for private interests and use, are liable to the tax if they are given in obedience to any law which requires them to be given when called for.

A certificate of search showing that the dockets or records of a court have been searched, and show either that liens exist or do not exist as to property, or that judgments are recorded or are not recorded, and also certificates of search to ascertain whether or not titles are good, whether taxes have been paid, and other certificates of this character are not such as are required in the general discharge of governmental functions on the part of the officers giving them, but are such as are needed for private use and private interests, and are, therefore, subject to the tax, as being required by law to be given when called for.

If the act performed, or the certificate issued by the officer is in the discharge of an official function necessary in operating the general machinery of the Government, it is exempt.

45. Certificates of acknowledgment of deeds and mortgages are not required to be stamped, whether the amount involved is above or below the minimum taxable point. The memorandum on the back of a deed or mortgage, made by the register or recorder, that the instrument has been placed upon record, is not subject to taxation. It is not a certificate such as is contemplated by the law. It is a brief note on the back of the deed or mortgage citing date of filing and date and place of record.

46. Certificates of birth, marriage, and death, given in pursuance of the laws of the State requiring the collection and registration of vital statistics as a basis for the administration of public health laws, come within the exemption of section 17. Such certificates, however, when issued to private persons for private use, are subject to the 10-cent stamp tax.

47. *Certificates of deposit drawing interest*, if left a certain time, are taxable first at the rate of 2 cents, but if left until interest accrues, stamps at the rate of 2 cents per $100 must be added.

Certificates of deposit payable otherwise than at sight or on demand must be stamped at the rate of 2 cents per $100 or fraction thereof, whether they draw interest or not.

Checks, drafts, orders for the payment of money, etc.

48. Sight drafts drawn upon or issued by any bank, trust company, or any person or persons, companies or corporations, require a stamp, and, if the acceptance of the draft is accompanied by an order to the bank to pay the same and charge to the account of the drawee, this accompanying order requires, in addition, a 2-cent stamp as "an order for the payment of money." And if a time draft, the accompanying order must be stamped at the rate of 2 cents per $100.

49. Where a draft duly stamped is drawn by one bank on another bank, the bank receiving and paying it is not required to affix any stamp thereto.

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50. When a bank charges a customer's account with the amount of a note, at its maturity, which he has given and which is made payable at that bank, no liability to stamp occurs thereby, unless some written direction is given by the maker of the note to the bank which is, in effect, an order to the bank to pay the amount of the note to the holder out of the funds of the maker of the note. Such an order would require a 2-cent stamp.

51. Checks drawn by the manager of the clearing house, to settle balances between banks, are subject to stamp as checks.

52. A receipt personally tendered to a bank by a depositor upon the withdrawal of funds to his credit does not require a stamp.

53. Orders for the payment of money on sight or on demand are subject to the stamp tax imposed on checks by the third paragraph of Schedule A; but on orders for the payment of money "otherwise than at sight or on demand" the stamp tax must be paid as on promissory notes.

54. An order payable or redeemable in merchandise only (and not in money) does not require the 2-cent stamp.

55. The withdrawal of funds by a depositor on the presentation of his bank book to the savings bank does not require a stamp, if there is nothing accompanying it in the form of an order for the payment of money.

56. Checks and drafts drawn in favor of public officers, such as postmasters, tax collectors, treasurers, clerks of court, and the like, are subject to taxation.

57. Tickets received at a bank and paid the same as checks are regarded as in effect orders for the payment of money.

58. Orders for the payment of money, drawn by the secretary of an order or beneficiary society on its treasurer do not require a 2-cent stamp, if they come directly into the hands of the treasurer; but if they are presented for payment by a third party or his indorsee, then a 2-cent stamp is required.

59. A check drawn by the cashier, or some other officer of a bank, upon the bank of which he is such officer, made payable to some person not connected with the bank, requires a stamp.

60. If a check used is simply in the nature of a memorandum, and not an order for the payment of money, but used within the bank exclusively, as a method of keeping the accounts, it is not necessary to stamp the same as a check.

61. A check drawn in this country upon a bank is subject to the same tax, whether the bank upon which it is drawn is a domestic bank or a bank located in a foreign country. The distinction between a check and a bill of exchange, either inland or foreign, is well defined.

62. The conveyance by express companies or other common carriers of bank bills, coin, currency, or money of any kind, imposes an obligation on such common carriers to issue and stamp a bill of lading or

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receipt for the same, it being held that such property is included within the terms "any goods accepted for transportation."

63. Money orders issued by express companies must be stamped at the rate of 2 cents for each order.

64. Foreign express money orders payable abroad, but cashed in the United States, are subject to taxation at the rate of 2 cents.

65. Orders by telegraph or otherwise for the payment or transfer of money abroad issued by express or other companies, or any person or persons, require a stamp at the rate of 4 cents for each $100. Orders for the same purpose within the United States require a stamp of 2 cents on each order, irrespective of the amount.

66. Checks drawn by United States disbursing officers against public funds standing to their official credit in performance of duties required by law do not require a 2-cent internal revenue stamp placed thereon. And all checks drawn by officers of States, counties, and municipalities for the discharge of the obligations of States, counties, and municipalities are exempt under section 17 of the act. These checks should have an indorsement on their face showing that they are drawn against "public funds."

67. Any order for payment of money drawn in, but payable out of, the United States, if drawn singly, is subject to tax of 4 cents for $100 or less, and for each additional $100 or fraction, 4 cents.

68. A 2-cent stamp is required on an order for cash drawn on a merchant by one of his customers.

69. If papers in the nature of receipts are given in lieu of checks, and are used as commercial negotiable instruments, they are checks and not receipts, and are subject to tax.

70. The person who signs and issues a bank check, without affixing the proper stamp, becomes involved in liability to penalties under section 10 of the act, unless it is shown that he had no design to evade the payment of the stamp tax, and that the requisite stamp was affixed and canceled by the bank or person upon whom it was drawn before payment.

71. Where a check is presented at a bank without having the requisite stamp affixed, the bank, if it pays such unstamped check, becomes liable to the penalty provided by section 10 of the act. Bank may cure defect by affixing proper stamp.

72. Tickets, which are on the face merely memoranda of money due (e. g., John Doe, June 25, 1898, $15), and do not contain any language making them checks or orders for the payment of money or promissory notes, are not subject to tax, unless received and paid at bank the same as checks.

73. Grain tickets, cotton tickets, and all other similar instruments which are given to persons who present them to banks or third persons to be cashed, are subject to taxation at the rate of 2 cents, as orders for the payment of money.

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Grain tickets, cotton tickets, and similar instruments O. K.'d by a buyer and paid with *buyer's own money* in the hands of a third party are not subject to tax as orders for the payment of money.

Charter party.

74. The tax under this head is imposed only upon vessels employed in foreign trade or the whale fisheries, and does not apply to vessels employed in domestic trade and trade on the Great Lakes with Canada.

Deeds and mortgages.

75. Deeds and mortgages executed by a sheriff, in compliance with an order of the court, are subject to a tax.

76. Contract for deed which does not convey and vest title, and which contains a provision for giving a deed upon compliance with the conditions in the contract, is not taxable as a conveyance of land.

76½. If a deed does not grant, assign, transfer, or convey to the purchaser any lands, tenements, or other realty, but only the right to burial, to erect monuments, etc., it does not require a stamp.

77. A conveyance of realty sold subject to a mortgage should be stamped according to the value of the property unincumbered. The consideration in such case is to be found by adding the amount paid for the equity of redemption to the mortgage debt.

78. There is no difference in the rate of taxation between that on a chattel mortgage and on a mortgage of realty.

79. Deeds, mortgages, and similar instruments placed as "escrows" are not subject to taxation until final delivery.

80. Where a mortgage states full amount secured and provides for present and future issues of bonds it should be stamped according to the full amount secured.

81. Quitclaim deeds are subject to taxation according to the value of the property interest conveyed.

82. Where a railroad mortgage is issued for the purpose of securing bonds, which are reserved to be issued only on a mileage basis of road afterwards constructed, whenever the mortgage goes into operation, it should have the stamp affixed. The mortgage can not go to registration without such stamp, and no recorder or register should receive it for registration without the stamp.

83. The stamp tax is required to be paid on the assignment of a mortgage at the same rate as on the original instrument when there has been no reduction of the mortgage prior to the assignment. Where an assignment is made of a mortgage by a separate written instrument, and the mortgage and instrument are deposited with a trustee as security for obligations, the stamp tax must be paid on the memorandum of the pledge of these instruments at the rate fixed by the paragraph relating to mortgage or pledge.

84. Where a mortgage is deposited with a trustee as security for

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obligations without any assignment, but accompanied by a power of attorney, authorizing an assignment in the event of a default upon the obligations, the stamp tax is required to be paid on the pledge of the mortgage and also on the power of attorney, but not on the transfer authorized until this transfer is completed.

85. Mortgages received by a State from persons to whom State lands may be sold are subject to the stamp tax.

86. Abstracts of title do not require to be stamped.

87. Releases of mortgages, or releases of deeds of trust that operate as mortgages, are not subject to taxation, no matter in what form they are executed. If they require a notarial acknowledgment this is subject to a tax of 10 cents.

88. Where local laws authorize entry of satisfaction upon the record, and the mortgage is thus canceled, such entry does not require a stamp. If the mortgagee, as he has a right to do in some States, makes a power of attorney to the register or recorder or other person for the entry of satisfaction of the mortgage, stamp tax must be paid on this power of attorney.

89. The words of purchase in the paragraph of the law relating to conveyances of real estate include all changes of title except those occurring by descent or operation of law.

90. A mortgage, no matter what the date, should not be admitted to registration when presented on or after July 1, 1898, unless there is attached and canceled the proper revenue stamp.

91. In cases where the consideration in a deed is nominal, the actual value of the property conveyed should govern the amount of the stamp required. A conveyance of realty subject to a mortgage should be stamped according to the consideration or value of the property unincumbered. The consideration in such case is to be found by adding the amount paid for the equity of redemption to the mortgage debt.

92. On an assignment of a mortgage the tax is based on the amount remaining unpaid of the mortgage assigned.

Express receipts.

93. The shipment of bundles or packages of newspapers inclosed in one general bundle under a single bill of lading is permitted, and there will be no objection to the distribution of the contents of such a general bundle at the different stations along the line of the railroad.

94. A shipment bears but one tax, although in completing it transit by rail, boat, or other method of conveyance is required. A through export bill of lading made at an interior domestic point requires only a 10-cent stamp.

95. The stamp should be affixed to the evidence of receipt and forwarding for each shipment, whether the evidence is in the form of a bill of lading, manifest, receipt, or book, and the common carrier is compelled by law to issue this evidence of receipt and forwarding.

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Insurance policies.

96. A policy of insurance is not valid unless it bears the proper canceled revenue stamp.

97. A stamp is required upon every assignment of a policy of life insurance at the same rate as that on the original instrument.

98. Neither the so-called mortgage clause attached to a fire insurance policy nor its cancellation or release requires additional stamp.

99. Where a policy of life insurance is assigned as collateral security for a loan, it should be stamped as a pledge according to the amount of debt secured and not according to face of policy.

100. Concerning the payment of internal-revenue tax on premiums charged on marine, inland, or fire insurance under open policies, see Internal Revenue Circular No. 504.

101. All policies of insurance issued in the United States by foreign insurance companies are subject to taxation.

102. Fire insurance policy when assigned or transferred is subject to taxation in proportion to the unearned premium.

103. Industrial insurance companies who receive monthly premiums can make monthly returns under the proviso in Schedule A relating to these companies.

104. When policies of reinsurance are issued by one company to another they are not subject to taxation.

105. Only purely cooperative or mutual fire insurance companies, carried on by the members thereof solely for the protection of their own property and not for profit, are exempted from taxation.

106. Assessment beneficiary life insurance associations, insuring their own members and not for profit, come within the exempting provision.

107. The exemption given to fraternal beneficiary life insurance associations applies also to fraternal beneficiary accident insurance associations.

108. The second proviso in the paragraph relating to life insurance in Schedule A, "that the provisions of this section shall not apply to any fraternal, beneficiary society, or order," relates only to policies of insurance referred to in that paragraph.

109. A policy does not require a stamp until it is issued or is offered as an insurance policy, and an insurance company can stamp a policy through its local agents as well as through its general agent.

110. Any agent of the company who is charged with the duty of delivering the policy to the policy holder and receiving the premium would be authorized to affix and cancel the stamp in behalf of the company.

111. A stamp must be attached to premium notes as well as to policies.

Jurat.

112. The ordinary notary's jurat is not required to be stamped; affidavits are not taxable.

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Leases.

113. Where leases are executed in duplicate, so that both are originals, both are required to be stamped; but if there be but one original, copies thereof are not required to be stamped.

114. This office holds that where a receipt is given for money received as rent for certain premises and for a certain term, and there are no other recitals in the receipt, it does not require a stamp. If the receipt contains any phrase or clause that can be construed as a contract for the hire, use, or rent as aforesaid, in such cases the receipt becomes something more than a bare receipt, and should be stamped according to its tenor and effect. A mere reference in a rent receipt to an existing lease, duly executed, will not be construed as a new lease.

115. Leases which are assigned are taxable on the basis of the term assigned.

116. Landlord and tenant agreements letting property by the month are taxable at the rate of 25 cents as leases for a less period than one year; if the tenancy continues for a longer period than one year, there is no additional tax imposed on the instrument.

Local delivery express.

117. Mere local operators for the delivery of packages, baggage, and such like, within the limits of the same town or city, are not required to give bills of lading. Although such operators may give a receipt for articles to be delivered, such receipt is not required to be stamped. A mere carrier, as, for instance, a person with a horse and wagon, who does a *local delivery business* in a city or town, is not included within the above requirement. The carriers which were intended to be included within the terms of Schedule A, under the head of "Express and freight," are such as are engaged in the transportation of express matter and freight from one place to another in the ordinary course of commerce and trade.

Manifests.

118. The manifest for custom-house entry or clearance of the cargo of any ship, or vessel, or steamer for or from a foreign port does not include ship's supplies for its voyage. It only includes those things which the ship has taken aboard for transportation.

119. Stamp duties imposed on manifests, bills of lading, and passage tickets do not apply to steamboats or other vessels plying between the ports of the United States and ports in British North America.

Notes.

120. Where notes or bonds with interest-coupon notes are given, said coupons being in the form of promissory notes, each coupon note requires a stamp in addition to the stamp placed on the principal note.

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121. Interest coupons, not in the form of promissory notes, attached to bonds or notes and surrendered simply as receipts for interest paid do not require a stamp.

122. No stamp is required upon the transfer by indorsement of promissory notes.

123. Where notes secured by a deed of trust are used as collateral, the deed of trust and the notes are required to be stamped, not on the basis of their face value, but on the amount for which they are pledged (that is to say, the memorandum of their pledge must be so stamped). This pledge of notes and deed of trust does not require to be stamped again because of renewals of the notes held as collateral if the pledge itself is not renewed.

124. Promissory notes which have matured and have been allowed to run without suit are held not to be renewed by the payment of interest. This is looked upon as a "forbearance" and not a renewal, the holder not relinquishing his right of action for any stated period.

125. A bond secured by mortgage given by a private person in lieu of a promissory note is taxable as a promissory note and not as a bond.

126. Real estate mortgage notes require to be stamped, in addition to the stamps placed on the mortgage.

127. In cases of loans on real estate, where promissory notes are given, which are not paid at maturity, but on which an extension of time of payment is granted, without the taking of a new note, it is held that every such extension is a renewal of the note within the meaning of the statute, and that the requisite stamp must be affixed for every such renewal or extension. This also applies to notes discounted before July 1, falling due on or after that date.

128. An *inland bill of exchange*, within the meaning of this act, is a bill of exchange drawn and made payable anywhere in the United States.

National bank, report, list of shareholders, and returns.

129. Revenue stamps are not required on the *reports* of earnings and dividends, and reports of condition made to the Comptroller of the Currency *by national banks.*

130. The *list of shareholders* required by section 5210, Revised Statutes, to be forwarded to the Comptroller of the Currency requires no stamp tax. The paper is not a certificate, but a list.

131. A stamp is not required on *returns of national banks of notes in circulation* made semiannually to the United States Treasurer.

Powers of attorney.

132. Powers of attorney executed abroad and used in this country require a stamp.

133. Powers of attorney executed in this country for use abroad do not require a stamp.

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134. Where judgment notes, so called, contain a *clause authorizing any attorney at law to confess judgment* in favor of the holder of the note, such authorization *is held to be a power of attorney*, and taxable as such in addition to the tax required on the judgment note as a promissory note.

135. Powers of attorney executed on the back of stock certificates used in connection with transfer of shares require to be stamped in addition to the tax on transfer of stock.

136. Powers of attorney to sell or transfer Government bonds are taxable.

136½. Power of attorney contained in a pledge of collateral securities requires no stamp.

Pledge.

137. Where certificates of stock are delivered as collateral, the stock to be forfeited only upon condition of failure to pay the debt for which it is *pledged*, a stamp is required as a pledge and not as a sale.

138. Where there is a *pledge* of property accompanying any promissory note, which pledge is subject to stamp tax under Schedule A, this stamp tax must be paid, notwithstanding the fact that a stamp is also required on the note connected with it.

139. Pledges of property are not held to be renewed by the renewal of the note which they secure; there must be some specific act of renewal of the pledge in order to subject it to taxation as a renewal.

140. A paper or instrument stipulating that certain securities or other property shall be held as indemnity or as a basis of credit or a guarantee generally, without specifying particular property as security for the payment of a definite and certain sum, is not liable to tax under the war-revenue act relating to pledge.

Proxy.

141. A 10-cent stamp is sufficient upon a *proxy* for use in voting at an election of officers of an incorporated company, without regard to the number of signatures.

142. Powers of attorney and proxies for the purpose of voting the stock of building and loan associations, which make loans only to their shareholders, do not require to be stamped. Where, upon one power of attorney or proxy, a number of shareholders join in appointing a certain person to vote their stock, one stamp is sufficient.

Receipts.

143. Receipts given by a safe deposit company in renting boxes in the company's vaults are not subject to tax, nor are receipts given by such companies merely for the safe-keeping of money and valuables.

144. Receipts given to the patrons of post-office for box rent are not taxable.

145. No stamp is required on ordinary receipts.

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146. Dray receipt given at export steamer's wharf does not require a stamp in addition to bills of lading which are stamped. Shipping receipts given by common carriers of freight for goods to be transported to port of export require stamp.

Sales or transfers of stock.

147. In reckoning the stamp tax on transfer of certificates of stock, the tax is reckoned on the face value ("face value" means par value). In reckoning this tax, the fact that only part of the face value of shares subscribed for and issued has been paid by the shareholders is not to be taken into consideration.

148. Where stock is sold at the par value of $100, and upon which it appears that only $25 have been paid, the tax is to be reckoned upon the face value of $100, and not upon the $25.

149. Where one certificate represents several shares, the tax of 2 cents on each $100 or fraction thereof is to be reckoned on the face value of the certificate, and not on the face value of each separate share.

150. On transfer of one certificate representing 500 shares, $5 par value, the stamp tax required is 50 cents.

151. When certificates of stock or other securities are pledged for a loan, the stamp tax is to be reckoned not on the face value of the certificates or securities, but on the amount of money loaned above $1,000.

152. When stock is transferred for which no certificate has been issued, and the evidence of transfer is shown only by books of the company, the stamps should be placed upon such books. Where the change of ownership is by the transfer of a certificate, and the certificate contains a blank form of assignment on the back which is filled in by the insertion of the name of the person to whom the stock is transferred, the stamp should be placed upon the certificate transferred and not on the new certificate issued in lieu of the old one.

153. In case of an agreement to sell, or where the transfer is, by the delivery of the certificate, signed in blank, the name of the transferee or vendee to be filled in afterwards, there should be made and delivered by the seller to the buyer a bill or memorandum of sale to which the stamp should be affixed.

154. Where certificates of shares were sold and delivered before July 1, 1898, entry of transfer on corporate books after June 30 does not require stamp.

155. New certificates of stock issued to holder in lieu of original certificate, and remaining in his ownership, do not require stamps.

156. When certificate of stock is sold and stamp tax is paid on memorandum thereof, upon transfer of this certificate to purchaser's name no additional tax for such transfer is required. Where one certificate represents several shares of stock (however large the number of shares), on transfer of this certificate the stamp tax is to be reckoned on its face value and not on the face value of each separate share of stock which it represents.

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157. Transfers of stock from parties occupying fiduciary relationships to those for whom they held the stock are transfers subject to taxation.

158. A owns a certificate of one hundred shares of stock; he transfers fifty shares to B; there are two certificates of fifty shares each issued in lieu of the one hundred share certificate, fifty shares going to A and fifty shares to B. The tax imposed is on the transfer to B; there is no tax on A's transfer to himself.

Sales of live stock.

159. When a sale is made of live stock at a live stock exchange or any similar place, or an agreement of sale, or an agreement to sell entered into, the seller must give to the buyer a bill, or memorandum, or other evidence of such sale, agreement of sale, or agreement to sell, to which must be affixed the stamp required, viz, 1 cent for each $100 in value of such sale, agreement of sale, or agreement to sell, and 1 cent for each additional $100 or fractional part thereof.

160. If live stock is sold at an exchange or board of trade, or other similar place, either for present or future delivery, the sale, agreement of sale, or agreement to sell must be evidenced by a bill, memorandum, or agreement to be delivered by the seller to the buyer, and this evidence should have the stamp affixed as required in the act, viz, 1 cent on each $100, and on each $100 or fraction thereof an additional 1 cent.

Stamps.

161. In regard to who shall pay for stamps required on documents, this office can not dictate. It is the duty of the person, firm, or corporation issuing the instrument to see that it is duly stamped, and a penalty is provided for neglect in so doing, and the inference is drawn that the person, firm, or corporation issuing the instrument shall pay for the stamp required.

162. Proprietary stamps can not be used on documents.

163. In regard to the cancellation of internal revenue adhesive stamps, which the law requires to be by writing or stamping the initials of the persons using the same, and the date upon which the stamp shall be attached or used, it is held the cancellation may be by writing or imprinting with a hand stamp, and the initials and the day, month, and year should appear.

164. Old stamps issued under repealed acts can not be used in lieu of stamps required by the present law.

Tickets (passage on a vessel).

165. Tickets issued in the United States for passage on a vessel not sailing from any port of the United States, but from a Canadian port (or other foreign port), are not subject to stamp tax.

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The only passage ticket for which stamp tax is required to be paid by this statute is a ticket issued for transportation of the passenger "by any vessel from a port in the United States to a foreign port." When, therefore, to such passenger ticket there is attached another ticket entitling the passenger, after his arrival at the foreign port, to transportation to various points in Europe, or elsewhere, such additional ticket is not subject to stamp tax.

The stamp tax for a passenger ticket may be affixed thereto and canceled at the time and place where it is issued, or it may be affixed and canceled at the pier before the passenger boards the vessel.

Where one passenger ticket is issued, even though it contains several names, but one stamp tax is required to be paid thereon.

166. There is no exemption from the stamp tax on charity tickets issued at low rates.

Telegraphic messages.

167. Telegraphic messages sent by the Associated Press over their own private lines to different newspapers are not required to be stamped.

When one uses a leased Western Union Telegraph wire, for which he pays a stipulated annual rental and has the exclusive use, and for which he employs his own operator, stamp tax is not required to be paid by him on messages sent by him over this wire relating to his own private business.

168. If the sender of a dispatch is a Government or State officer in the discharge of a duty in carrying out governmental functions required by law in operating the machinery of the Government, the dispatch is exempt; but if the act is simply that which the officer does individually in the interest of a private person or outside party to serve such private person or outside party individually, then the dispatch must be stamped.

169. The payment of tax on messages transmitted by a telegraph company, and subsequently received and transmitted by a telephone company, does not exempt the last-named company from the payment of tax on the message so transmitted.

170. A telegraphic dispatch or message is required to be stamped by the person who makes, signs, or issues it.

Telephone companies.

171. Where telephone companies have lines extending into more than one collection district, the return may be made to the collector of that district in which the principal business office of the company is located.

172. Contracts and agreements between subscribers and telephone companies for the placing of a telephone, and payment therefor, are not subject to stamp tax.

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Warehouse receipts.

173. Stamps should be affixed to warehouse receipts for goods, merchandise, or property held on storage in public or private warehouses, by the warehousemen.

174. If the actual grower of tobacco, which is an agricultural product, deposits the same in a warehouse in the regular course of trade for sale and takes a warehouse receipt, this receipt is exempt from the stamp tax when it is issued, and it is not required to be stamped at any time after its issuance (if the tobacco which it represents remains in warehouse as it was originally deposited by the grower), although the same may be transferred as a negotiable instrument and presented to the warehouseman by other than the original holder.

175. Where tobacco, or the warehouse receipt therefor, is sold "at any exchange or board of trade, or other similar place," a memorandum of such sale must be made by the seller, and the stamp affixed thereto and canceled.

176. Where a warehouse receipt is sold by a broker at his own office or elsewhere than at a place of exchange, or other place of public sale, the 10-cent stamp must be affixed to the memorandum of this transaction under the paragraph relating to broker's contract.

177. Any receipt or memorandum given by a warehouseman, or any signing by a warehouseman of any express company's book or other receipt evidencing the fact that goods have been placed on storage, is such a receipt, requiring a stamp tax of 25 cents, whether the same is negotiable or nonnegotiable.

178. A warehouse receipt which includes also an insurance against fire should be stamped also as an insurance policy, according to the premium charged.

179. Compress receipts for cotton are not taxable as warehouse receipts if they do not embrace any contract, express or implied, for storage, and for which a storage charge is made as such. The receipt for cotton received for compression, handling, and shipment is exempt from taxation.

180. The exemption from tax on warehouse receipts for agricultural products is restricted to receipts for products of this kind, which are deposited by the actual grower thereof in the regular course of trade for sale. This does not exempt warehouse receipts for such products in case the property deposited has already passed from the ownership of the actual grower.

N. B. SCOTT, *Commissioner.*

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REGULATIONS, CIRCULARS, ETC., UNDER ACT OF JUNE 13, 1898.

(19481.)

Internal revenue provisions of act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 14, 1898.

To collectors of internal revenue:

Your attention is called to the act entitled "An act to provide ways and means to meet war expenditures, and for other purposes," which was approved by the President on the 13th instant. * * *

This act takes effect on the day next succeeding the day of its passage, that is, on this date, except as otherwise provided for. * * *

You are instructed to read over the law carefully and take prompt action whenever required, giving publicity to its provisions, so that all parties who are affected thereby may be duly informed of their liabilities.

The principal additions and changes made in the law previously in force are as follows:

ACT OF JUNE 13, 1898.

Fermented liquors.—An additional tax of $1 per barrel is imposed on fermented liquors, the increased rate to take effect the day succeeding the passage of the act.

Brewers are allowed 7½ per cent discount on stamps purchased.

The additional tax on fermented liquors stored in warehouses, already stamped is to be assessed.

Special taxes, on and after July 1, are imposed as follows:

1.	Bankers, graduated, minimum	$50.00
2.	Brokers	50.00
3.	Pawnbrokers	20.00
4.	Commercial brokers	20.00
5.	Custom-house brokers	10.00
6.	Proprietors of theaters, etc	100.00
7.	Proprietors of circuses	100.00
8.	Proprietors of shows for money	10.00
9.	Proprietors of bowling alleys and billiard rooms, for each alley or table	5.00
10.	Dealers in leaf tobacco, graduated, minimum	6.00
11.	Dealers in tobacco whose sales exceed 50,000 pounds	12.00
12.	Manufacturers of tobacco, graduated, minimum	6.00
13.	Manufacturers of cigars, graduated, minimum	6.00
14.	Manufacturers and packers of mixed flour	12.00

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The latter tax is not imposed until sixty days after passage of the act, that is, August 12, 1898. All persons engaged in the business on that date are required to make return before the end of August and pay the special tax reckoned from August 1, 1898, to the first day of July following.

Tobacco and snuff.—An additional tax of 6 cents per pound is imposed on tobacco and snuff.

On cigars and cigarettes weighing more than 3 pounds per thousand an additional tax of 60 cents per thousand is imposed.

On cigarettes weighing not more than 3 pounds per thousand an additional tax of 50 cents per thousand is imposed.

A 1-ounce package of smoking tobacco is authorized; and 1⅔, 2½, and 3½ ounce packages of tobacco and snuff are authorized, in lieu of 2, 3, and 4 ounce packages.

The increased rates take effect on the day next succeeding the passage of the act; that is, June 14, 1898.

Dealers having a stock on hand, in excess of 1,000 pounds of tobacco, or 20,000 cigars or cigarettes, stamps affixed subsequent to April 14, at old rate, must make returns to collectors within thirty days after passage of act for assessment of tax equal to one-half difference between tax already paid at time of removal from factory and new rate. The excess on hand only is to be returned and the tax will be assessed on the excess, which will be paid to collectors after notice. No additional stamps are to be affixed to such stock on hand.

Stamp duties to take effect July 1, 1898.

Schedule A.—Documents and instruments, passage tickets, telegraphic dispatches, insurance policies, etc. Returns to be made monthly of telephone messages costing 15 cents or more.

Schedule B.—Proprietary articles, chewing gums, wines, etc.

Stamp tax on seats in parlor or palace cars, and tickets in sleeping cars.

Gross receipts of persons, firms, companies, and corporations engaged in refining petroleum and sugar, or owning or controlling any pipe line for transporting oil or other products in excess of $250,000. A tax of of one-fourth of 1 per cent annually is imposed, which takes effect the day succeeding passage of the act. Returns are to be made monthly.

A tax is imposed on legacies, passing after passage of the act, exceeding $10,000. Rates vary, according to consanguinity, from 75 cents for each $100 to $5 for each $100 in value. Above $25,000 the rates increase. When the value of the property exceeds $1,000,000, rates are multiplied by three. Executors, administrators, and trustees are required to render a list to collectors on a prescribed form.

The provisions of the act relative to mixed flour take effect sixty days after passage of act, or August 12, 1898.

On barrels or other packages not to exceed 196 pounds the tax is 4

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cents per barrel, 2 cents per half barrel, 1 cent per quarter barrel, one-half cent per one-eighth barrel or less.

Further instructions will be given as occasion requires.

N. B. SCOTT, *Commissioner.*

BONDS OF INTERNAL REVENUE OFFICERS.

(19690.)

Regarding the stamping of bonds given by internal revenue officers.

[Internal Revenue Circular No. 502.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 13, 1898.

Attention is called to the fact that the "Act to provide ways and means to meet war expenditures, and for other purposes," approved June 13, 1898, provides in Schedule A, as to bonds, as follows:

For indemnifying any person or persons, firm, or corporation who shall have become bound or engaged as surety for the payment of any sum of money, or for the due execution or performance of the duties of any office or position, and to account for money received by virtue thereof, and all other bonds of any description, except such as may be required in legal proceedings, not otherwise provided for in this schedule, fifty cents.

Under the terms of the above provisions all bonds given by officers of internal revenue to the United States for the faithful discharge of duty, as disbursing agents, for indemnifying the Government, or for any other purpose whatsoever, must have attached thereto a 50-cent documentary stamp. This stamp will be affixed by the principal, and canceled by writing or imprinting thereon his initials and the date when affixed.

The said act further requires that where the guaranty is by any fidelity, guaranty, or surety company an additional stamp must also be affixed to the bond at the rate of one-half of 1 cent on each dollar, or fractional part thereof, of the premium charged.

A stamp of the denomination of 10 cents must also be affixed to the bond, by the terms of the act, if it bears a certificate of any description *required by law*, not otherwise specified in the act.

This provision is not held to be applicable to the certificate directed by the Commissioner of Internal Revenue to be made by collectors on the back of bonds as to the sufficiency of the sureties, nor, in case of those of gaugers, storekeepers, and storekeeper-gaugers, that neither of the sureties is a distiller, rectifier, or a wholesale liquor dealer.

Collectors of internal revenue will be expected to see that the above requirements as to stamping of bonds are fully observed before the same are transmitted to this office.

N. B. SCOTT, *Commissioner.*

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CHEWING GUM.

(19579.)

Regulations relative to tax on chewing gum or substitutes therefor.

[Circular No. 120—Int. Rev. No. 498.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 27, 1898.

The act entitled "An act to provide ways and means to meet war expenditures, and for other purposes," approved June 13, 1898, provides under Schedule B, on and after July 1, 1898, a tax on chewing gum or substitutes therefor, as follows:

For and upon each box, carton, jar, or other package containing chewing gum of not more than one dollar of actual retail value, four cents; if exceeding one dollar of retail value, for each additional dollar or fractional part thereof, four cents; under such regulations as the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, may prescribe.

On and after that date stamps must be affixed by the maker or manufacturer to packages of chewing gum or substitutes therefor before the same are removed from the factory for consumption or sale.

Stamps of the denomination of 4 cents have been provided for the payment of this tax. When packages exceed $1 of retail value the manufacturer shall affix additional stamp or stamps to cover the amount of tax due on such packages.

Section 20 of the act provides, in case of failure to affix the stamp denoting the tax, that the party shall be deemed guilty of a misdemeanor and upon conviction thereof shall pay a fine of not more than $500, or be imprisoned not more than six months, or both, at the discretion of the court.

Section 22 of the act also provides that in case of failure to affix the proper stamp as provided, with intent to evade the tax, the maker or manufacturer shall be liable to a fine of not more than $500, or to imprisonment for not more than six months, or both, at the discretion of the court, and the articles unstamped are liable to forfeiture.

The manufacturer will, if practicable, so affix the stamp or stamps denoting the proper tax to each box, carton, jar, or package containing chewing gum before its sale or removal from the factory or place of manufacture as to effectually seal the package so that on opening the same or using the contents the stamp or stamps will be broken.

The manufacturer using or affixing the stamp shall write or stamp thereon the initials of his name and the date upon which the same shall be attached or used. In default thereof the party making default will be liable to the penalty imposed by section 9 of the act.

Persons desiring to have proprietary stamps furnished from private dies should apply to the collector of the district, and furnish designs.

There shall be affixed to each and every box, carton, jar, or other

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package containing chewing gum, before its removal from the factory, a label on which shall be printed, in plain legible letters, the number of small tablets, 1-cent packages, or other small packages of chewing gum contained therein, and the retail price of such tablet or small package of gum, in form as follows:

One hundred 1-cent packages, retail value	$1.00
Twenty packages, 2 for 5 cents, retail price	.50
Sixty packages, 3 for 5 cents	1.00
Twelve packages, 5 cents each	.60

There shall also be affixed to each package a label upon which shall be printed in plain, legible letters the manufacturer's name, with town or city address, and the number of the district, and the State in which the factory is located, for example: "John Doe, Manufacturer, Philadelphia, First District of Pennsylvania."

These labels may be printed on the boxes or cartons if preferred.

Samples for salesmen, or for mailing, or for free distribution shall be taken only from packages which have been duly stamped. The stamps on emptied packages will be destroyed.

The law provides that when articles upon which stamp taxes are required are to be exported they may be sold or removed without having stamps affixed. It also provides for the allowance of drawback of the tax thereon when exported after tax is paid. (See sections 22 and 26, act of June 13, 1898, and regulations, series 7, No. 24, issued June 23, 1898.)

When chewing gum is to be sold through automatic vending or selling machines, the same is to be kept in the regularly stamped boxes, packages, or containers until placed in the machines, when the stamps shall be destroyed. The chewing gum shall be securely locked in the machine and shall not be removed therefrom except through the regular aperture controlled by the mechanism.

At the end of each and every month the manufacturer or maker of chewing gum or substitutes therefor must make a declaration, as provided in section 23 of said act, as follows:

That every manufacturer or maker of any of the articles or commodities provided for in Schedule B, or his foreman, agent, or superintendent shall at the end of each and every month make, sign, and file with the collector of internal revenue for the district in which he resides a declaration in writing that no such articles or commodity has, during such preceding month or time when the last declaration was made, been removed, or carried, or sent, or caused or suffered or known to have been removed, carried, or sent from the premises of such manufacturer or maker other than such as have been duly taken account of and charged with the stamp tax, on pain of such manufacturer or maker forfeiting for every refusal or neglect to make such declaration one hundred dollars; and if any such manufacturer or maker, or his foreman, agent, or superintendent, shall make any false or untrue declaration, such manufacturer or maker, or foreman, agent, or superintendent making the same shall be deemed guilty of a misdemeanor, and upon conviction shall pay a fine of not more than five hundred

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dollars, or be imprisoned not more than six months, or both, at the discretion of the court.

All chewing gum in the hands of manufacturers or wholesale or retail dealers on the 1st day of July, 1898, is subject to the payment of the stamp tax, but it shall be deemed a compliance with the act, as to such articles on hand in the hands of wholesale or retail dealers, who are not manufacturers thereof, to affix the proper adhesive stamp at the time the packages are sold at retail.

N. B. SCOTT, *Commissioner.*

Approved:

L. J. GAGE, *Secretary of the Treasury.*

INSURANCE COMPANIES.

(19645.)

Stamp tax—Marine insurance.

The affixing to the books of the underwriters of the stamps representing the tax on premiums charged on certain marine insurance policies authorized.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 30, 1898.

To all collectors:

Under the war-revenue law (Schedule A), paragraph entitled "Insurance" (inland, marine, fire), the tax on marine insurance is to be paid by a stamp representing one half of 1 cent on each dollar or fractional part thereof upon the amount of premium charged. It appearing to the satisfaction of this office that from the nature of the marine insurance business it is only possible to ascertain the amount of the premiums charged under open policies from the books of the underwriters, and as they have filed a satisfactory bond, you are authorized to accept the affixing of stamps to said books, and their due cancellation as full compliance with the law, provided that the stamps are affixed monthly and the figures are sworn to by the president and secretary or the recognized attorneys or agents of the marine insurance corporation or association paying the tax.

You will also, on the first day of each month, or within ten days thereafter, require a return in duplicate on a form to be prescribed by this office from each of such underwriters showing the amount of premiums received under open policies during the preceding month, the first return to be made on the 1st day of August, 1898, or within ten days thereafter, to include all premiums charged during the month of July, 1898.

You will forward these returns with the list, Form 23, for the month covered by them. The taxes being payable by stamp will be assessed in column 10½ of the assessment list.

N. B. SCOTT, *Commissioner.*

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(19740.)

Concerning the payment of internal-revenue tax on premiums charged on marine, inland, or fire insurance under open policies.

[Internal Revenue Circular No. 504.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 20, 1898.

The paragraph relating to marine, inland, and fire insurance, under Schedule A, act of June 13, 1898, provides:

Insurance (marine, inland, fire): Each policy of insurance or other instrument, by whatever name the same shall be called, by which insurance shall be made or renewed upon property of any description (including rents or profits), whether against peril by sea or on inland waters, or by fire or lightning, or other peril, made by any person, association, or corporation, upon the amount of premium charged, one-half of one cent on each dollar or fractional part thereof: *Provided*, That purely cooperative or mutual fire-insurance companies carried on by the members thereof solely for the protection of their own property and not for profit shall be exempted from the tax herein provided.

Upon satisfactory representations made to this office that a strict compliance with the foregoing provisions of law, in the matter of affixing the required stamps, is impracticable in cases where insurance is effected, or renewed, under "open policies," collectors of internal revenue are authorized, under circular letter of June 30, 1898, to allow certain marine-insurance companies who had filed a satisfactory bond to affix the required stamps to the books of the company on which the amount of premiums under such open policies are charged, to be certified to by the proper officer of the company on the first day of the following month, or within ten days thereafter.

To provide for future like cases, collectors are further authorized, upon satisfactory representations made by any marine, inland, or fire insurance company issuing open policies of insurance, that the premiums charged are not, and can not be in the ordinary course of business, entered on such policies; and that the same will be duly entered on the books of the company as to each such policy, to allow such companies to affix the required stamps to the books on which such entries are made, as authorized in the cases first referred to.

The collector will, however, in all such cases require a satisfactory bond in the following form, to be given by the company, or by an approved surety company, and in a penal sum of not less than $10,000:

Know all men by these presents: That the ———, a corporation of the State of ———, and having its principal office at ———, in the State of ———, is held and firmly bound unto the United States of America in the full and just sum of ——— dollars, lawful money of the United States, to which payment well and truly to be made the said company binds itself, its successors and assigns, firmly by these presents.

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Sealed with its corporate seal, and dated this —— day of ——, 189—.

Whereas the (above bounden[1]) ——— is engaged in the business of insuring against loss or damage (here state character of risk and class of property on which such risk is assumed); and whereas the premiums charged by the said company under its open policies of insurance are subject to a stamp tax under the provisions of an act of Congress approved June 13, 1898; and whereas the premiums so charged can not, in the usual and ordinary course of its business, be charged or entered by the said company on the said open policies of insurance:

Now, therefore, the condition of this obligation is such that if the said ——— company shall, as to all premiums charged under the said open policies of insurance, on and after the first day of July, 1898, cause the same to be entered on the premium books of the said company, and shall pay the full amount of tax imposed by the act of Congress aforesaid on all premiums so charged, and shall affix to the said premium books the required stamps denoting the payment of said tax; and shall, on the first day of each month, or within ten days thereafter, render to the collector of internal revenue for the ——— district of ——— a full and accurate statement of all premiums so charged, and the amount of tax paid thereon as aforesaid, then this obligation to be void; otherwise to remain in full force and virtue.

As conditioned in the foregoing bond, the company will, not later than the tenth day of each month, render a statement of the amount of premiums charged during the preceding month, as also the amount of tax thereon paid. The required statement should be made on Form 429, in duplicate, one copy of which will be retained by the collector and one copy forwarded to the Commissioner of Internal Revenue.

The foregoing regulations will also apply to cases where individuals or firms, acting as agents or brokers, receive or charge premiums under open policies of insurance *in addition* to the premiums charged by the companies issuing such policies. It is to be especially noted that this provision has no reference to commissions allowed agents out of premiums charged by the companies issuing policies of insurance, as all such premiums must be reported by the companies *in gross*, and the tax thereon paid by the companies as required by law. Attention is also especially called to the fact that the foregoing regulations have reference only to *open* policies of insurance, and not to policies or other instruments under which insurance is effected, or renewed, where the premiums charged are, or can in the ordinary course of business be, noted thereon.

In view of the fact that stamps used in payment of taxes imposed in the cases here provided for are not identifiable by serial numbers, such taxes, if paid, will not hereafter be reported by collectors on their assessment lists; and so much of circular letter of June 30, 1898, above referred to as is inconsistent herewith is hereby rescinded.

N. B. SCOTT, *Commissioner.*

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[1] Omit, if bond is given by a surety company. In such case the corporate name and principal office of the company on whose behalf the bond is given should be stated in full.

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INTERNAL-REVENUE STAMPS.

(19747.)

Sale of war-revenue stamps.

Discount allowed on purchases amounting to $100 applies only to adhesive stamps under Schedules A and B.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 22, 1898.

To collectors of internal revenue:

Section 25 of the act of of June 13, 1898, provides that collectors of internal revenue may sell and deliver adhesive stamps in quantities of not less than $100 of face value, with a discount of 1 per cent, except as otherwise provided in said act. The discount referred to applies *only to adhesive stamps* used in the payment of the tax levied in Schedules A and B of said act and furnished by this office to collectors, who shall sell and deliver them at their face value to all persons applying for the same, except officers or employees of internal revenue.

Special attention is called to the fact that the discount of 1 per cent under the conditions mentioned does not apply to stamps imprinted upon checks, drafts, and other documents; nor to proprietary stamps printed from private dies for the use of proprietors of articles who may furnish the same under the provisions of section 9 of said act.

N. B. SCOTT, *Commissioner.*

(19935.)

Regulations concerning internal-revenue documentary and proprietary stamps.

[Series 7, No. 26.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., August 22, 1898.

Section 6 of the act of June 13, 1898, provides, under the title of "adhesive stamps," for the collection on and after July 1, 1898, of certain taxes on documents, instruments, and things mentioned and described in Schedule A, and upon certain medicines, preparations, and things described in Schedule B of said act, as follows:

Stamp duties on and after July 1, 1898.

SCHEDULE A—DOCUMENTARY.

1. Bonds, debentures, or certificates of indebtedness of any association, company, or corporation, on each $100 of face value or fraction thereof....	$0.05
2. On each original issue of certificates of stock, whether on organization or reorganization, on each $100 of face value or fraction thereof.....	.05
On all sales, agreements to sell, memoranda of sales, deliveries or transfers of shares, or certificates of stock, of any association or corporation, on each $100 of face value or fraction thereof.....	.02

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3. Upon each sale, agreement to sell, or agreement of sale, of any products or merchandise at any exchange or board of trade, either for present or future delivery, for each $100 in value of said sale $0.01
And for each $100 or fractional part thereof in excess of $100 ..... .01
4. Bank check, draft, certificate of deposit not drawing interest, or order for the payment of any sum of money drawn upon or issued by any bank, trust company, or any person or persons, companies, or corporations at sight or on demand ..... .02
5. Bill of exchange (inland), draft, certificate of deposit drawing interest, or order for payment of any sum of money otherwise than at sight or on demand, or any promissory note, except bank notes issued for circulation, and for each renewal of same, for a sum not exceeding $100 ..... .02
And for each additional $100 or fractional part thereof in excess of $100 .. .02
(This clause applies to money orders issued by the Government.)
6. Bill of exchange (foreign), or letter of credit (including orders by telegraph or otherwise issued by express or other companies, or any person or persons), drawn in but payable out of the United States, drawn singly or otherwise than in sets of three or more, for not exceeding $100 ..... .04
And for each additional $100 or fractional part thereof in excess of $100 .. .04
If drawn in sets of two or more: For every bill of each set for a sum not exceeding $100 or its equivalent in foreign currency value fixed by the United States standard ..... .02
For each additional $100 or fractional part thereof in excess of $100 .... .02
7. Bills of lading or receipt (other than charter party) for goods, etc., to be exported ..... .10
8. Bills of lading, manifests, etc., issued by express companies or public carriers, etc., a stamp to each, and to each duplicate thereof, of the value of .01
9. Bond: Indemnifying, etc., except those required in legal proceedings .... .50
10. Certificates of profits, or certificates of memoranda showing interest in the property or accumulations of any associations, company, or corporation, and all transfers thereof on each $100 of face value or fraction thereof. .02
11. Certificate of damage, or otherwise, and all other certificates or documents issued by port warden or marine surveyor ..... .25
12. Certificates of any description required by law not otherwise specified in act ..... .10
13. Charter party: Contract or agreement for the charter of any ship, vessel, or steamer, or any renewal or transfer thereof, for every ship not exceeding 300 tonnage 3.00
More than 300 and not exceeding 600 tonnage 5.00
More than 600 tonnage 10.00
14. Contract: Broker's note or memoranda of sale of goods, or merchandise, stocks, bonds, exchange, notes of hand, real estate, or property of any kind, issued by brokers, etc., for each note or memorandum of sale not otherwise provided for in act ..... .10
15. Conveyance: Deed, instrument, or writing conveying lands, tenements, or other realty, etc., value over $100 and not exceeding $500 ..... .50
For each additional $500 or fraction thereof ..... .50
Dispatch, telegraphic: On each message ..... .01
16. Entry of goods, wares, and merchandise in custom-house not exceeding $100 in value ..... .25
Exceeding $100 and not exceeding $500 ..... .50
Exceeding $500 in value 1.00
Entry for withdrawal of goods or merchandise from customs bonded warehouse ..... .50
17. Insurance (life): On every policy, except any fraternal beneficiary society or order, for each $100 or fractional part thereof on the amount insured. .08
(Industrial or weekly-payment plan, the tax is 40 per cent of the amount of the first weekly premium, as to which sworn statement is required to be made to the collector of the total amount of first weekly premiums received on policies issued during preceding month.)
18. Insurance (marine, inland, and fire, except purely cooperative or mutual): On each policy or renewal, on amount of premium charged, on each $1.00 or fractional part ..... .00½
19. Insurance: Casualty, fidelity, and guarantee, on each policy on each $1.00 or fractional part thereof of premium received ..... .00½
20. Lease, agreement, memorandum, or contract for the hire, use, or rent of land or tenement not exceeding one year ..... .25
Exceeding one year and not exceeding three years 50
If exceeding three years 1.00

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21. Manifest for custom-house entry or clearance of cargo of any ship, vessel, or steamer for a foreign port, registered tonnage not exceeding 300 tons $1.00
Exceeding 300 and not exceeding 600 ..... 3.00
Exceeding 600 ..... 5.00
(Does not apply to vessels plying between ports of the United States and ports in British and North America.)

22. Mortgage of lands, estate or property, real or personal heritable, movable, made for payment of definite sum of money, also any conveyance of lands, estate, or property whatsoever in trust, etc., exceeding $1,000 and not more than $1,500 ..... .25
On each $500 or fractional part in excess of $1,500 ..... .25
(Same as above in all assignments or transfers.)

23. Passage tickets by any vessel from United States to a foreign port, costing not exceeding $30 ..... 1.00
More than $30 and not exceeding $60 ..... 3.00
More than $60 ..... 5.00

24. Power of attorney or proxy for voting at any election for officers of any incorporated company or association except religious, charitable, literary, or public cemeteries ..... .10

25. Power of attorney to sell or convey real estate or to rent or lease the same, to collect or receive rent, to sell or transfer stock, bonds, etc ..... .25
(Papers used in the collection of pension, back pay, or bounty claims, or claims for property lost in military or naval service, are exempt.)

26. Protest: Upon the protest of every note, bill of exchange, acceptance, check, or draft, or any marine protest ..... .25

27. Telegraph dispatch, on each message ..... .01

28. Telephone messages: Every person, firm, or corporation, operating line or lines, is required to make, within the first fifteen days of each month, a sworn statement to the collector of the number of messages or conversations transmitted over their lines during preceding month for which a charge of fifteen (15) cents or more was imposed, and for each of such messages or conversations to pay a tax of ..... .01

29. Warehouse receipt for goods, merchandise, or property held on storage, except agricultural products deposited by actual grower ..... .25

SCHEDULE B—PROPRIETARY.

Medicinal proprietary articles and preparations.

1. For and upon every packet, box, bottle, pot, or phial, etc., containing any pills, powders, tinctures, waters (except natural spring waters and carbonated natural spring waters), etc., made and sold by any person whatsoever, claiming any private formula, secret or occult art, etc., sold under letters patent or trade-marks, etc., or recommended as remedies or specifics for any disease, when such packet, box, bottle, or phial, etc., shall not exceed the sum of 5 cents at the retail price ..... .00½
When retail price exceeds 5 cents and not 10 cents ..... .00¾
When retail price exceeds 10 cents and not 15 cents ..... .00¾
When retail price exceeds 15 cents and not 25 cents ..... .00¾
And for each additional 25 cents or fractional part thereof ..... .00¾

2. Perfumery and cosmetics and other similar articles: For and upon every packet, box, bottle, pot, or phial, etc., where such packet, box, bottle, pot, phial, and contents shall not exceed in retail price 5 cents ..... .00½
When retail price exceeds 5 cents and not 10 cents ..... .00¾
When retail price exceeds 10 cents and not 15 cents ..... .00¾
When retail price exceeds 15 cents and not 25 cents ..... .00¾
And for each additional 25 cents of retail price or value or fractional part thereof in excess of 25 cents ..... .00¾

3. Chewing gum or substitutes therefor: For and upon each box, carton, jar, or package containing chewing gum, when the retail value does not exceed $1.00 ..... .04
If exceeding $1.00, for each additional dollar or fractional part thereof ..... .04

4. Sparkling or other wines when bottled for sale: Upon each bottle containing one pint or less ..... .01
Upon each bottle containing more than one pint ..... .02

Stamp tax not under Schedules A and B.

On seats in parlor or palace cars and berths in sleeping cars (stamp to be affixed to the ticket by the company) ..... .01

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Under authority conferred upon the Commissioner of Internal Revenue in section 25 of said act, the following adhesive stamps have been prepared:

Documentary stamps—Schedule A.—½-cent, 1-cent, 2-cent, 3-cent, 4-cent, 5-cent, 10-cent, 25-cent, 40-cent, 50-cent, 80-cent, $1, $3, $5, $10, and $50.

Proprietary stamps—Schedule B.—⅛-cent, ¼-cent, ⅜-cent, ⅝-cent, 1-cent, 1¼-cent, 1⅝-cent, 2-cent, 2½-cent, 3¾-cent, 4-cent, and 5-cent.

Procurement of adhesive stamps.

All of the above stamps may be purchased from collectors and deputy collectors of internal revenue, and from bankers, merchants, and others keeping them for sale.

When purchased from collectors or their deputies to the amount of $100 face value at one time, whether for use or resale, a discount of 1 per cent will be made.

The discount of 1 per cent will not be allowed on purchases of stamps imprinted on checks, drafts, or other papers, or private die proprietary stamps.

Stamps to be affixed to articles manufactured in a foreign country and imported into the United States may be purchased and forwarded to the place of manufacture and there affixed to the articles before the same are packed for importation.

Imprinted stamps on checks, drafts, and other papers.

Persons desiring to have stamps imprinted upon checks, drafts, orders, or other papers will make application therefor to the collector of their district, transmitting or presenting with such application payment for the stamps. The application must state the name and address of the contractor who will imprint the stamps, and should authorize the delivery of the paper, when stamped, to the said contractor.

Upon receipt of such application and payment for the stamps the collector will forward to the stamp agent at the establishment of the contractor designated an order for the imprinting of the stamps and the delivery of the stamped paper to the contractor for shipment to owner. Collectors must in all cases attach their seals to such orders. The agent must take the contractor's receipt for all stamped paper when delivered.

Blank checks, drafts, or other papers to be imprinted with revenue stamps should be forwarded by the persons desiring the same directly to the contractors, who will imprint the stamps.

The Government will not pay any expense or assume any risk on paper forwarded contractors, or on stamped paper returned by contractors to owners.

The contractor's charge for imprinting stamps is limited by the terms of his contract with the Government to an amount not exceeding $1 per thousand stamps, and payment therefor should be made directly to the contractor.

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For the convenience of collectors and others, the names and addresses of contractors authorized to imprint stamps and stamp agents at each establishment are furnished as follows:

List of persons and firms authorized by contract to imprint stamps on checks and other papers in the cities designated.

Contractor.	City.	Stamp agent.
American Bank Note Co	Boston, Mass	Chas. O. Fellows.
Clarke & Courts	Galveston, Tex	John D. Settle.
Cooty Lithographing and Printing Co	Minneapolis, Minn	Wm. H. Farnham.
Pioneer Press Co	St. Paul, Minn	Frank H. Barnard.
P. F. Pettibone	Chicago, Ill	Ira L. Gifford.
Armour & Co	do	D. H. Lamberson.
Geo. D. Barnard	St. Louis, Mo	John C. Brown.
August Gast Bank Note and Lithographing Co	do	W. S. Thompson.
Franklin-Lee Bank Note Co	New York City	Granville G. Beers.
David Milliken, jr	do	Patrk. J. O'Brien.
Union Lithograph Co	San Francisco, Cal	Fred. A. Sprague.
Blatchley Lithograph Co	Tacoma, Wash	Geo. E. Cleveland.
Guggenheimer, Weil & Co	Baltimore, Md	W. B. Jenkins.
Courier-Journal Job Printing Co	Louisville, Ky	B. F. D. Fitch.
Strobridge Lithograph Co	Cincinnati, Ohio	A. E. B. Stephens.
Alfred M. Glossbrenner	Indianapolis, Ind	A. S. Coulogue.
The Evening Wisconsin Co	Milwaukee, Wis	John Saveland.
The Brandon Printing Co	Nashville, Tenn	J. C. Jacobus.
The J. C. Hall Co	Providence, R. I	C. D. Sellew.
Burk & McFetridge Co	Philadelphia, Pa	H. S. Loucheim.
The Penn Printing and Publishing Co	do	A. A. Norris.
Pueblo Lithographing and Printing Co	Pueblo, Colo	C. E. Stimpson.
The Union Bank Note Co	Kansas City, Mo	Jas. C. Lepscum.
Hudson-Kimberly Publishing Co	do	Silas C. Price.
The American Imprinting Co	Jersey City, N. J	
The Hall Lithographing Co	Topeka, Kans	Fred. K. Brown.
Klopp & Bartlett Co	Omaha, Nebr	
The Combe Printing Co	St. Joseph, Mo	E. O. Wild.

Private die proprietary stamps.

Section 9 provides that any proprietor or proprietors of proprietary articles subject to stamp duty under Schedule B of the act shall have the privilege of furnishing, without expense to the United States, in suitable form, to be approved by the Commissioner of Internal Revenue, his or their own dies or designs for stamps to be used thereon, to be retained in the possession of the Commissioner of Internal Revenue for his or their separate use, which shall not be duplicated to any other person. The dies above referred to are to be prepared only by the Bureau of Engraving and Printing of the Treasury Department, and in order to have such a die prepared the manufacturer desiring it should submit to the collector of internal revenue of his district a design for the same, giving exact dimensions thereof. The collector will submit the design to this office for information as to the cost of preparing the same. Upon being advised in regard thereto by this office he will inform the manufacturer, who should then deposit with the collector the amount required.

The collector should then deposit the same to the credit of the Treasurer of the United States as a miscellaneous collection on account of preparation of private die. The amount should not enter in any manner into his account of collection of internal revenue. The preparation of a private die will require from thirty to sixty days. When completed the collector will be notified of the fact, and he will so inform the manu-

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facturer, who can then order stamps to be printed therefrom in quantities of not less than $2,000 face value at one time. He will then be required to deposit with the collector with each order for stamps the money to pay for the same. The collector will then forward to this office an order for the stamps, which, when printed, will be forwarded to him and by him to the manufacturer. The printing of stamps on each order will require about thirty days.

All private die stamps must contain the words "United States Internal Revenue," also in words and figures the denomination of the stamps, and shall contain no other matter except the design, the name of the proprietary article, place of manufacture, and name of proprietor or general agent. The stamp shall not exceed in superficial area 1 inch for the denomination of 1½ cents or any less denomination, and 1½ inches in superficial area for any larger denomination. All designs for private dies should be prepared in conformity herewith.

Until their private dies are prepared and stamps printed therefrom, manufacturers of proprietary articles will use general proprietary stamps.

Cancellation of documentary and proprietary stamps.

In any and all cases where an adhesive stamp shall be used for denoting any tax imposed by the act of June 13, 1898, the person using or affixing the same shall write or stamp thereon, with ink, the initials of his name, and the date[1] (year) in which the same shall be attached or used, or shall, by cutting and canceling said stamp with a machine or punch which will affix the initials and date as aforesaid, so deface the stamp as to render it unfit for reuse. The cancellation by either method should not so deface the stamp as to prevent its denomination and genuineness from being readily determined. Stamps imprinted upon the face of checks, drafts, or other similar instruments may be canceled by dating and signing the check or draft and filling out the blank lines in writing across the face of the stamp in the usual manner of drawing checks and drafts. Stamps on checks and drafts may also be canceled by perforating through said stamp and the paper to which it is attached the amount in figures for which said check or draft is drawn.

Where proprietary stamps printed from private dies are used for the payment of tax upon proprietary articles, instead of cancellation by initials and date, such stamps shall be so affixed on the box, bottle, or package that in opening the same or in using the contents thereof the said stamp shall be effectually destroyed.

Stamps affixed to articles of foreign manufacture imported into the United States may be canceled by imprinting with a stencil or stamp, in addition to the initials and date as aforesaid, the name of the place of manufacture. Such name may extend across the stamp on to the wrapper or covering of the package.

[1] This has been amended; the day and the month, as well as the year, must now be written or printed in the cancellation. (See 20462, page 345.)

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Rulings relative to documentary and proprietary stamps.

1. Documentary and proprietary revenue stamps issued prior to June 13, 1898, under former revenue laws, can not be used for the payment of taxes required by existing law, and the redemption or exchange of such old stamps is prohibited by statute.

2. Ordinary postage stamps, except such as were imprinted with the letters I. R. by the Bureau of Engraving and Printing, and furnished by this office to collectors for sale as documentary stamps, can not be used for the payment of any internal revenue taxes.

3. Revenue stamps imprinted on checks, drafts, orders, or other papers will not be redeemed.

As adhesive stamps may be sold by any person and readily pass at their face value in the market; provision has not been made for their exchange or redemption by the Government. Where, however, such stamps are rendered useless by gumming or sticking together, in transit, or otherwise without the fault of the purchaser, they may be exchanged by a collector for other stamps of exactly the same quantity and denomination.

4. Documentary and proprietary stamps can not be used interchangeably. Documentary stamps only must be used upon papers, documents, and instruments subject to tax as provided in Schedule A. Only proprietary stamps must be used upon articles and things enumerated in Schedule B.

5. Where a stamp of the proper denomination to pay the tax due on an article or document can not be procured, two or more stamps may be used. In such case as few stamps as possible should be attached, and each stamp used should be canceled in the manner provided by regulation.

N. B. SCOTT, *Commissioner.*

Approved:

L. J. GAGE, *Secretary of the Treasury.*

(20094.)

Posting of stamps.

Special tax payers must post conspicuously in their places of business the stamps indicating payment of the special tax.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 26, 1898.

To collectors of internal revenue:

It is reported to this office that special-tax payers are not in many instances posting conspicuously in their places of business the stamps indicating payment of the special tax. The attention of collectors is

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hereby called to section 3239, United States Revised Statutes, which is as follows:

Every person engaged in any business, avocation, or employment, who is thereby made liable to a special tax, except tobacco peddlers, shall place and keep conspicuously in his establishment or place of business all stamps denoting the payment of said special tax; and any person who shall, through negligence, fail to so place and keep said *stamps*, shall be liable to a penalty equal to the special tax for which his business rendered him liable, and the cost of prosecution; but in no case shall said penalty be less than ten dollars. And where the failure to comply with the foregoing provision of law shall be through willful neglect or refusal, then the penalty shall be double the amount above prescribed:

Provided, That nothing in this section shall in any way affect the liability of any person for exercising or carrying on any trade, business, or profession, or doing any act for the exercising, carrying on, or doing of which a special tax is imposed by law, without the payment thereof.

You are instructed that hereafter, for any neglect or failure to comply with this provision of law, it will be your duty to report the delinquents to this office and to the United States district attorney for his action.

You will notify special tax payers of this requirement, and warn them of the consequences of failure to comply therewith. This does not refer to case of banks, as special taxes paid by them are assessed, and no special-tax stamps are furnished.

N. B. SCOTT, *Commissioner.*

(26191.)

Private dies for proprietary stamps.

[Circular No. 182—Int. Rev. No. 512.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 12, 1898.

The regulations of this office, series 7, No. 26, page 30, and Department Circular No. 171 (Internal Revenue No. 510), in regard to private-die stamps, are hereby amended as follows:

Private dies for stamps to be affixed to proprietary articles will be prepared only in four sizes, when such stamps are to be gummed or perforated, the dimensions of which shall be as follows: (1) One inch by one-half inch; (2) one inch by one inch; (3) two inches by three-fourths of an inch; (4) four and one-half inches by one inch.

Any of the above sizes to be used for any denomination of stamp.

Dies for proprietary stamps of other sizes, when approved by the Commissioner of Internal Revenue, may be prepared for printing private die proprietary stamps, not gummed or perforated, when said stamps are ordered in quantities of not less than $5,000 face value at any one time.

Approved: N. B. SCOTT, *Commissioner.*

O. L. SPAULDING, *Acting Secretary.*

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(20266.)

Correspondence relative to documentary and proprietary stamps.

[Internal Revenue Circular No. 516.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 29, 1898.

To collectors of internal revenue:

Letters from the public in regard to the provisions of Schedules A and B of the war-revenue act continue to be received at this office in such numbers as are beyond the capacity of its clerical force to promptly answer, and the situation is such as calls for some measure of immediate relief.

Collectors of internal revenue in their various districts are directed to avail themselves of such facilities as may be afforded them through the courtesy of the newspaper press to inform the public that all inquiries in regard to internal-revenue matters should be made through their offices, and if the questions presented are of a complicated nature, or have not heretofore been officially decided, then reference may be made to this office.

N. B. SCOTT, *Commissioner.*

(20338.)

Special-tax stamp—Registering transfer.

Collector has no discretion as to granting or declining to grant application for transfer of special-tax stamp.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 16, 1898.

SIR: In reply to your letter of the 11th instant, you are hereby advised that a retail liquor dealer who closes his regular place of business and removes the business (as you state) to a picnic ground, Grand Army reunion, or elsewhere, even though this removal is but temporary, is entitled, under the provisions of the last clause of section 3241, Revised Statutes, to have his special-tax stamp transferred to that place upon registering the fact of removal with the collector.

The collector has no discretion, as you suggest, as to granting or declining to grant such an application for transfer of the stamp.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. F. E. KELLOGG, *Collector Sixth District, Kansas City, Mo.*

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(20346.)

Special-tax stamp—Successor of dissolved firm.

A member of a firm who, upon its dissolution, carries on the business himself without associating any other person with him therein, is entitled to continue the business under the firm's special-tax stamp and to have such stamp transferred to any other place to which he removes the business.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 19, 1898.

SIR: The Solicitor of the Treasury, Hon. Maurice D. O'Connell, has referred to this office a letter addressed to him on the 31st ultimo by Mr. Andrew Arent, jr., who states that he was a partner in the firm of J. M. Shaupp & Co., liquor dealers, at Bode, Iowa, and that he is now the remaining partner in that firm, having "purchased the entire stock and moved the same to Rutland, Iowa," and is desirous of having the special-tax stamp of this firm transferred from Bode to Rutland, to cover this business carried on by him at the latter place.

If Mr. Arent is the successor in business of the firm of J. M. Shaupp & Co., of which he was a member up to the time of its dissolution, and has associated no other person since with himself in the business, he is entitled to carry on the business under the special-tax stamp of this firm for the remainder of the year for which it was issued; and he is also entitled to have this stamp transferred to his new place of business at Rutland, Iowa. You will please make this transfer upon his registering the facts as to the dissolution of his old firm and his succeeding to the business upon the purchase of the entire stock and the removal of the business to the new place of business in Rutland.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. J. W. PATTERSON, *Collector Third District, Dubuque, Iowa.*

(20441.)

Powers of collectors.

Powers of collectors to stamp unstamped instruments—Section 3422, Revised Statutes, applicable to act of June 13, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 15, 1898.

SIR: In reply to your letter of the 12th instant, regarding the power of collectors to stamp unstamped instruments, you are informed that this office holds that section 13 of the act of June 13, 1898, is to be read in connection with section 3422, Revised Statutes. The latter section

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includes all instruments liable to stamp duty, and is not limited in terms to "bonds, debentures, or certificates of stock or indebtedness." Section 3422, Revised Statutes, is made applicable to the act of June 13, 1898, by section 31 of the latter act.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. B. WHITE,
Collector Internal Revenue, Parkersburg, W. Va.

(20462.)

Adhesive documentary and proprietary stamps—Amending regulations as to cancellation.

[Circular No. 207.—Int. Rev. No. 520.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D C., December 23, 1898.

Existing regulations are hereby amended so as to require that upon each adhesive documentary or proprietary stamp used or affixed after January 1, 1899, there shall, in addition to the initials of the person using the same and the year in which used, also appear the month and day of the month when such stamp was used or affixed. The month may be expressed by numerals—for instance, on a stamp used on January 12, 1899, the date may be written or stamped 1/12/99.

N. B. SCOTT, *Commissioner.*

Approved:
O. L. SPAULDING, *Acting Secretary of the Treasury.*

LEGACIES AND DISTRIBUTIVE SHARES.

(20415.)

Legacy tax.

Legacies and distributive shares.—Instructions to collectors of internal revenue and internal revenue agents.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., December 10, 1898.

To collectors of internal revenue and internal revenue agents:

From information received, this office is inclined to the opinion that the fact that there is an internal revenue tax on legacies and distributive shares of estates, where the decedent died on or after June 13,

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1898 (leaving a personal estate the "whole amount" of which exceeds in value $10,000), is not fully understood.

All wills filed for probate in the offices of registers of wills or other similar offices should be examined. Effort should be made to have the public advised of the requirements of this law. It would be well to have the press give it publicity. Executors and administrators should be furnished with forms for making return of tax, and notified of their liability. The payment of this tax in all cases where it accrues before distribution of personal estate is imperative.

Attention is called to regulations and instructions concerning the tax on legacies and distributive shares, series 7, No. 3, revised; also to the following decisions, published since said regulations were issued, to wit: Nos. 20237, 20368, 20388, and 20392.

G. W. WILSON, *Acting Commissioner.*

MIXED FLOUR.

(20203.)

Principal constituent.

To constitute mixed flour, the principal constituent of the mixture must be wheat flour.

[Circular No. 188—Int. Rev. No. 514.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 18, 1898.

That part of the paragraph on page 9, series 7, No. 25, which reads, "Every person, firm, or corporation engaged in *grinding together* wheat with any other grain or other material, or *mixing* the flour made from wheat with the flour made from any other grain or other material, shall be deemed a maker of mixed flour," is hereby modified to read as follows:

Every person, firm, or corporation engaged in *grinding together* wheat, as the principal constituent, with any other grain or other material, or *mixing* wheat flour, as the principal constituent, with the flour made from any other grain or other material, shall be deemed a maker or manufacturer of mixed flour.

G. W. WILSON, *Acting Commissioner.*

Approved:

O. L. SPAULDING, *Acting Secretary of the Treasury.*

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(20204.)

Mixed flour—Advertising matter.

Modification of regulation concerning the placing of a card, label, or other printed matter inside of package of mixed flour.

[Circular No. 189—Int. Rev. No. 515.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 18, 1898.

The regulation concerning the placing of a card, paper, or printed matter of any kind whatever inside of the package of mixed flour, as shown in paragraph 5, page 13, series 7, No. 25, is modified to read as follows:

If a manufacturer, packer, or repacker desires to place his card or advertising matter of any kind inside the package, he must first submit an exact copy of same for the approval of the Commissioner of Internal Revenue.

The said card or other advertising matter must in no case be larger than the Government card required by section 37, nor materially increase the weight or bulk of the package, and it must not be of such character as to deceive the consumer as to the contents of the package.

G. W. WILSON, *Acting Commissioner.*

Approved:

O. L. SPAULDING, *Acting Secretary of the Treasury.*

(20322.)

Regulations concerning exportation of mixed flour.

[Series 7, No. 25—Supplement No. 1.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 12, 1898.

* * * * * * *

Before removal of mixed flour from the place of manufacture, either for immediate or future exportation, each barrel or other package must have marked or branded thereon, in letters and figures of not less than one inch in height, the words "For export," and also a distinctive serial number by which each barrel or other package may be fully identified. The serial numbers so used will commence with No. 1 for the first barrel or other package, and will run consecutively, so that no two or more barrels or other packages shall be marked with the same number.

To avoid confusion in the matter of numbering the barrels or other packages, and in specifying the serial numbers on the various returns,

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they should be removed from the manufacturer's premises (and so far as practicable exported) in the same order in which they are numbered.

The goods, when so removed, must be consigned directly to the collector of customs, and the exporter will procure triplicate bills of lading, two of which he will file with the collector of internal revenue of the district from which the removal is made, and one he will forward to the collector of customs, by such conveyance and at such times as will insure its receipt by said collector of customs in advance of the arrival of the goods. The collector of internal revenue will send one of the bills of lading delivered to him to the Commissioner of Internal Revenue with his bonded account.

The bills of lading must clearly state the name and address of the collector of customs to whom the goods are to be delivered, and must not contain any condition or agreement which will impair the obligation of the exporter and transportation company to forward and deliver such goods to the designated collector of customs. * * *

N. B. SCOTT, *Commissioner.*

Approved:

O. L. SPAULDING, *Acting Secretary of the Treasury.*

SPECIAL TAX PAYERS' RETURNS.

(19748.)

Failure to make return.

As to the penalty for failure to make return on Form 11 of special taxes incurred.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 22, 1898.

SIR: Yours of the 13th instant is received, asking whether the specific penalty imposed by law for not making returns on Form 11 within the month in which the taxpayer commences business is applicable to the special taxes imposed by the war-revenue law.

In reply, you are informed that section 31 of the act of June 13, 1898, provides that "all administrative, special, or stamp provisions of law, including the laws in relation to the assessment of taxes, not heretofore specifically repealed, are hereby made applicable to this act."

Collectors will proceed as provided in section 3176, Revised Statutes, as amended, in case of neglect or refusal to make return, or in case of false or fraudulent returns.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. A. J. DAUGHERTY, *Collector, Peoria, Ill.*

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(20001.)

Fifty per cent penalty.

The 50 per cent penalty in case of special tax payers who had neither notice nor information of the requirement that they should make a sworn return to the collector as to their special-tax liability under the war-revenue act not to be assessed.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 3, 1898.

To collectors of internal revenue:

Letters addressed to this office from all parts of the United States by persons who have become liable for special taxes under the provisions of the second section of the act of June 13, 1898, and who, having failed to make the prescribed return (Form 11) under oath within the calendar month in which their liability began, have been called upon by collectors to pay 50 per cent in addition to the tax, clearly show that these persons, while aware of their special-tax liability under the new (war-revenue) act, had no knowledge or notice whatever that it was their duty, under section 3237, Revised Statutes, amended, to make sworn return regarding their business to the collector or deputy collector not later than the last day of the calendar month in which their liability began.

The war-revenue act gave them full notice as to their special-tax liability, but gave them no information of the requirement that they should make formal sworn return to the collector within the time prescribed by section 3237, Revised Statutes, as amended by section 53 of the act of October 1, 1890.

There being nothing in the new law specially calling the attention of the public to the provisions of section 3237, Revised Statutes, amended, as applicable to these new classes of special tax payers, it would be manifestly inequitable and unjust to regard the mandatory provision of section 3176, Revised Statutes, as requiring imperatively the addition of 50 per cent to the taxes due in these cases, as if they were on the same footing with special tax payers under the old law, who have had for many years complete information as to what is required of them, not only through published official notices, but also through the express terms of the law itself and the regulations and instructions issued thereunder.

Collectors are accordingly hereby authorized and directed for this time, in all cases of persons who had neither notice nor information that they were required to make sworn return within the calendar month when their liability began, and who, consequently, failed to make such return, to report the facts in these cases in their next lists for assessment of the special tax without the 50 per cent penalty, and to refer to this circular letter as their authority for doing so. This is not to be extended to cases hereafter arising.

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In each particular case of this kind, therefore, notice should be given that hereafter for any neglect or failure to make such return, without the excuse of "sickness or absence" (the only excuse provided for by section 3176, Revised Statutes), the 50 per cent penalty must be assessed and collected.

General notice hereof should also be given by collectors for the information of the public.

N. B. SCOTT, *Commissioner.*

(20030.)

Fifty per cent penalty.

Claim may be made on Form No. 46 for refund where parties liable under the act of June 13, 1898, failed to make return through ignorance of the requirements of law and regulations.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 10, 1898.

SIR: In reply to yours of the 5th instant, you are informed that where parties whose liability to special tax accrued under the act of June 13, 1898, failed through ignorance of the requirements of the law and regulations to make a sworn return, and in consequence were required to pay the 50 per cent penalty, such parties may make claims on Form 46 for the refunding of the penalties paid.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

MR. FRANK MCCORD,
Collector Eighteenth District, Cleveland, Ohio.

(20120.)

Fifty per cent penalty.

The circular letter dated September 3, 1898, directing collectors to report for assessment without the 50 per cent penalty those cases arising under the war-revenue act in which returns had not been made by taxpayers within the time prescribed, applies only to cases in which the taxpayers had already (prior to the issuance of that letter) failed to make sworn return before the expiration of the calendar month in which their liability began. Cases of such failure occurring in the month of September, 1898, or thereafter, must be reported for assessment of the tax due and 50 per cent additional.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., September 30, 1898.

SIR: In reply to a letter of the 17th instant from Revenue Agent Winne, then on duty with you, you are hereby advised that his understanding of the circular letter to collectors of September 3, 1898, is correct, namely, that it is intended to direct collectors to report for

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assessment without the 50 per cent penalty only those cases in which the taxpayers had already failed to make the sworn return required by the law before the expiration of the calendar month in which their liability began.

As full notice has since been given, through publications in the newspapers of the country, of the requirement of the law that sworn return of special-tax liability shall be rendered to the collector within the calendar month in which such liability began, persons who become liable for the tax only in the month of September do not come within the meaning and intent of the circular if they fail to make return before the expiration of this month, and all such cases should accordingly be reported by the collector to this office for assessment of the special tax and 50 per cent penalty, unless the excuse of "sickness or absence" provided for by the terms of section 3176, Revised Statutes, is presented, or unless the facts with regard to the special tax payer's business were disclosed to the collector or deputy in time for the presentation of the Form 11 to the special tax payer for his signature and oath before the end of the month. (Sec. 3173, Rev. Stat.)

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. JAMES W. MCGINNIS, *Revenue Agent, Philadelphia, Pa.*

(20197.)

Fifty per cent penalty.

Explanation of circular letter of September 3, 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 14, 1898.

SIR: In your letter of the 11th instant, relating to cases reported by Revenue Agent Trowbridge, involving persons in your district in special-tax liability and penalty, you state your understanding of Treasury decision 20120 (explaining the circular letter of September 3, 1898) to be that you are "to report for assessment, without the 50 per cent penalty, those cases in which liability began in July and August, in which the taxpayers had already failed to make return.

This understanding of the decision is correct so far only as concerns such of these special tax payers as, upon receiving the notice of the necessity of a sworn return, conveyed by the circular letter and by the general publication of its tenor in the newspapers, at once thereafter made their return (having had no prior notice).

It is not intended to extend to such of them as have allowed the entire month of September to pass by without making their returns. In all such cases the 50 per cent penalty must be exacted.

Respectfully, yours, N. B. SCOTT, *Commissioner.*

Mr. B. F. PARLETT, *Collector Internal Revenue, Baltimore, Md.*

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(20230.)

Special-tax return—Time of payment.

Every special tax payer making sworn return, Form 11, within the calendar month when his liability began, thereby escaping 50 per cent penalty, must pay the tax not later than the last day of that month. If he postpones payment to a later period, he becomes liable to criminal prosecution, and should be reported to the United States district attorney accordingly.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., October 19, 1898.

SIR: Your letter of the 11th instant has been received, referring to a report made by Revenue Agent Yates with reference to Mr. M. Finkle, lessee and manager of the Arch Street Theater, Philadelphia, who had not, at the time of the visit of the revenue agent, made return or paid special tax for his theater, which "was opened October 1." You state that on the 10th instant the lessee, Mr. Finkle, called at your office and made return of his liability to special tax from October 1, 1898, on Form 11. It appears, however, that he did not at that time pay the special tax, but stated "that he would then make return of the tax and pay the same before the end of the month." Your deputy collector should be instructed to see that he does so, and to inform him that if he should allow the month of October to go by without the payment of the special tax he would at once thereafter become liable to criminal prosecution. The ruling of this office on this point has been published for many years, and you will find it in 25 Internal Revenue Record, on page 237, in the letter to Mr. John M. Sullivan, collector of the twenty-third district of Pennsylvania.

You say:

It has been the general practice in this district when persons or firms make return of their liability to special tax during the month in which they begin business to take no further action until the assessment is made on the basis of the return.

If each person or firm after having made the special-tax return (Form 11) also pays the tax not later than the last day of the calendar month in which the liability began, there is no assessment to be made, as the stamp must be issued at once on the date of the receipt of the money.

Special tax payers must not be permitted, after having made their return, to postpone payment of the special tax to another calendar month. This is imperative, and you will give your deputies positive instructions on this point.

Respectfully, yours, G. W. WILSON, *Acting Commissioner.*

Mr. P. A. MCCLAIN, *Collector First District, Philadelphia, Pa.*

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TELEGRAPH AND TELEPHONE COMPANIES, ETC.

(19649.)

Concerning the use of telegraph.

[Circular No. 129—Int. Rev. No. 509.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 7, 1898.

Numerous inquiries having reached this office as to whether or not telegraphic messages dispatched by officers and employees of the Government on official business are required to be stamped under the provision of the act of June 13, 1898, it is deemed advisable to call attention to the fact that such messages are especially exempt from stamp tax by the last proviso of section 18 of the act referred to.

Telegrams of this character should be plainly marked "Official business," and sent "Collect" in all instances when dispatched solely in the personal interest or for the benefit of the party addressed.

In this connection, attention is particularly called to the fact that the telegraph is to be used at the expense of the Government only upon important public business and in case of urgent necessity where the ordinary mail facilities do not furnish sufficient dispatch.

All telegrams sent by internal-revenue officers or by private parties on their own personal interest must be prepaid, and all telegraphic replies to such telegrams will be sent at the expense of the parties sending the same.

N. B. SCOTT, *Commissioner.*

(19791.)

Stamping telegrams and sleeping-car tickets under act of 1898.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., July 28, 1898.

To collectors and internal-revenue agents:

Hereafter in making examinations of the files of telegraph companies and sleeping-car companies to ascertain if the law has been complied with with reference to stamping telegrams and sleeping-car tickets, you are advised that such examination should be restricted to simply ascertaining if the documents referred to have been properly stamped.

These instructions are particularly applicable to telegrams where neither the public good nor the safety of the revenues requires that they should be delivered to the examining officer. In such cases it is not expected that all the telegrams sent by the company from any one point

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should be examined. Such examinations will be considered ample if sufficient telegrams of any date called for by the examining officer are passed through the hands of a representative of the company in the presence of the examining officer in such a manner as to enable him to see that they are properly stamped. A knowledge of the contents of the telegrams is not essential to the examining officer.

N. B. SCOTT, *Commissioner.*

(20291.)

Sworn statements of telephone companies.

Returns (Form 424) of messages or conversations by various branches of a telephone company may be included in the monthly returns rendered to the collector of the district in which the principal office of such company is located.

[Internal-Revenue Circular No. 518.]

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., November 2, 1898.

Hereafter the sworn statement (Form 424) required from the principal office of any telephone company may include the number of messages or conversations (for which a charge of 15 cents or more has been imposed by the company) transmitted by its several branches, provided such action will not hinder the receipt of the return by the collector of internal revenue within the first fifteen days of the month succeeding that for which the return is rendered, as required by the act of June 13, 1898. In all such cases, however, each company will be required to state in its return (Form 424) that the return made includes and covers all messages or conversations transmitted for which a charge of 15 cents or more has been imposed by the company through its several branches during the period named, specifying the States (and, if known, the collection district) in which such branches are located.

The collector receiving such returns will, if satisfied that the same are correct, at once notify the collectors of the various districts in which the company's branches are located that a return of messages or conversations sent from such branches has been filed in his office, and collectors receiving such notifications will not, in such cases, require returns to be made by the local branches of that company.

Upon filing each subsequent monthly return the company will likewise specify the States or districts from which such returns of messages or conversations are included in its return during the month, and when the list of States or districts so furnished is found to agree with that furnished with the last previous return made by the company, no further notification to the collectors in whose districts such agencies are located will be required.

N. B. SCOTT, *Commissioner.*

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TOBACCO.

(19600.)

Special tax—Dealer in tobacco.

Dealer in cigars liable to special tax when sales for preceding fiscal year exceed 2,500,000 cigars—Any person commencing business as dealer in tobacco or cigars July 1, 1898, or subsequently during the year, required to pay special tax whenever sales exceed 50,000 pounds; the special tax will be computed from the first day of the month in which he commenced to engage in the business.

TREASURY DEPARTMENT,
OFFICE OF COMMISSIONER OF INTERNAL REVENUE,
Washington, D. C., June 28, 1898.

To collectors of internal revenue:

Section 4 of the act of June 13, 1898, relating to tobacco dealers and manufacturers provides as follows:

SEC. 4. That from and after July first, eighteen hundred and ninety-eight, special taxes on tobacco dealers and manufacturers shall be and hereby are imposed annually as follows, the amount of such annual taxes to be computed in all cases on the basis of the annual sales for the preceding fiscal year:

* * * * * * *

Dealers in tobacco whose annual sales exceed fifty thousand pounds shall each pay twelve dollars.

Every person whose business it is to sell, or offer for sale, manufactured tobacco, snuff, or cigars shall be regarded as a dealer in tobacco: *Provided*, That no manufacturer of tobacco, snuff, or cigars shall be required to pay a special tax as dealer in manufactured tobacco and cigars for selling his own products at the place of manufacture.

It is held that 2,500,000 cigars shall be regarded as equivalent to 50,000 pounds of tobacco, and the special tax of dealers will be computed on that basis.

It is assumed that 1,000 cigars is equivalent to 20 pounds of tobacco, and that 1,000 cigarettes is equivalent to 3 pounds of tobacco, for the purpose of determining the liability to special tax under the law.

If the dealer sells tobacco, snuff, cigars, and cigarettes, or only one or more of these articles, and his aggregate annual sales for the fiscal year ending June 30, 1898, exceeded 50,000 pounds, he will be required to pay the special tax, commencing July 1, 1898.

It is also held that a person who has not engaged in the business of dealer in tobacco prior to July 1, 1898, but who on that date, or subsequently during the year, engages in the business, will be required to pay the special tax whenever his sales have at any time within the year exceeded 50,000 pounds. The special tax will be computed from the first day of the month in which he commenced to engage in the business.

N. B. SCOTT, *Commissioner.*

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APPENDIX.

Documentary stamps.

Amendments to Circular 503, revised, relating to the documentary stamp tax, since January 1, 1899. (See p. 308 et seq.)

Ruling 3.—"Bills of lading for the export of goods, made out in sets of two, each having equal value and each being considered the original bill, both should be stamped."

This ruling has been modified by Treasury Decision *21496*, dated August 12, 1899, so that bills of lading for export, whether issued singly or in sets of two or more covering one shipment, require but one stamp of 10 cents. In cases of export bills of lading issued in sets of two or more, the bill retained by the consignor must be stamped and a notation made on the other bills of the same set, giving number of bills issued covering the same shipment and a statement that the bill retained by the consignor has been duly stamped.

Ruling 10.—"Bonds of brewers, manufacturers of oleomargarine, manufacturers of tobacco, manufacturers of cigars, distiller's annual, distiller's warehousing, transportation and export bonds, are required to be stamped. Where these bonds are required by law to be made in duplicate or triplicate, each must be stamped. Copies of distillers' bonds forwarded to this office for its use need not be stamped."

This ruling has been modified by Treasury Decision *21312*, dated June 21, 1899, so that where these bonds are required by law, or by regulation of the Internal Revenue Office, to be made in duplicate or triplicate, only the original is required to be stamped.

Ruling 48.—"Sight drafts drawn upon or issued by any bank, trust company, or any person or persons, companies or corporations, require a stamp. If the acceptance of the draft is accompanied by an order to the bank to pay the same and charge to the account of the drawee, this accompanying order requires in addition a 2-cent stamp as 'an order for the payment of money,' and for a time draft, the accompanying order must be stamped at the rate of 2 cents per $100."

This ruling has been modified by Treasury Decision *20874*, dated March 15, 1899, so that a time draft, with an order accompanying its acceptance for payment at a particular bank, would require only a 2-cent stamp in addition to the stamp already placed thereon, and not a stamp of 2 cents per $100. In other words, the last sentence of ruling 48 has been revoked.

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Ruling 58.—"Orders for the payment of money drawn by the secretary of an order or beneficiary society on its treasurer do not require a 2-cent stamp, if they come directly into the hands of the treasurer; but if they are presented for payment by a third party or his indorsee, then a 2-cent stamp is required."

This ruling has been modified by Treasury Decision *21077*, dated May 1, 1899, so that an order for the payment of money, drawn by one officer of a lodge or society on the treasurer thereof, does not require to be stamped if presented for payment directly to the treasurer by the party in whose favor said order is drawn. But, if the order is cashed by a bank, or otherwise negotiated and presented to the treasurer for payment by a party other than the one in whose favor it was originally drawn, it requires a 2-cent stamp.

Ruling 70.—"The person who signs and issues a bank check, without affixing the proper stamp, becomes involved in liability to penalties under section 10 of the act, unless it is shown that he had no design to evade the payment of the stamp tax, and that the requisite stamp was affixed and canceled by the bank or person upon whom it was drawn before payment."

This ruling has been modified by Treasury Decision *21395*, dated July 14, 1899, so that banks can not affix stamps to unstamped checks presented for payment.

Ruling 71.—"Where a check is presented by a bank without having the requisite stamp affixed, the bank, if it pays such unstamped check, becomes liable to the penalty provided by section 10 of the act. Bank may cure defect by affixing the proper stamp."

This ruling has been modified by Treasury Decision *21395*, dated July 14, 1899, to the effect that banks have no authority to affix stamps to unstamped checks presented for payment.

Ruling 77.—"A conveyance of realty sold subject to a mortgage should be stamped according to the value of the property unincumbered. The consideration in such case is to be found by adding the amount paid for the equity of redemption to the mortgage debt."

This ruling has been modified by Treasury Decision *21519*, dated August 17, 1899, so that when real estate is conveyed subject to a mortgage, if the deed conveying the same contains any covenant or statement whereby the grantee assumes the mortgage and becomes liable thereby for a deficiency judgment in case of foreclosure, then the amount of the mortgage is to be added to the value of the equity of redemption in determining the consideration on which the stamp tax is to be based. However, if there is no covenant or statement in the deed whereby any liability of the grantee for the payment of the mortgage can be implied, then the consideration is to be based only on the value of the equity of redemption.

Ruling 80.—"Where a mortgage states the full amount secured and provides for present and future issue of bonds, it should be stamped according to the full amount secured."

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This ruling has been modified by Treasury Decision *21400*, dated July 18, 1899, following the opinion of the honorable Attorney-General construing the amendment to the act of June 13, 1898, made by the act of February 28, 1899, so that a mortgage or deed of trust given to secure bonds, which are to be issued from time to time by any company, corporation or association, is valid so far as the stamp taxes are concerned, although no stamps are affixed thereto, if the bonds secured thereby are stamped *as issued* at the rate of 5 cents for each $100 or fraction thereof, and it is permissible to affix the necessary stamps either to the mortgage or the deed of trust, or to the bonds as parties may elect.

Ruling 82.—"Where a railroad mortgage is issued for the purpose of securing bonds, which are reserved to be issued only on a mileage basis of road afterwards constructed, whenever the mortgage goes into operation, it should have the stamp affixed. The mortgage can not go to registration without such stamp, and no recorder or register should receive it for registration without the stamp."

This ruling has been modified by the same decision, and to the same effect, as noted under Ruling *80*.

Ruling 90.—"A mortgage, no matter what the date, should not be admitted to registration when presented on or after July 1, 1898, unless there is attached and canceled the proper revenue stamps."

This ruling has been modified by Treasury Decision *20838*, dated March 10, 1899, so that a mortgage executed and delivered prior to July 1, 1898, is subject to stamp tax when offered for registration after that date in States only where by State law registration is necessary to establish a valid lien as between the parties. When a mortgage executed and delivered prior to July 1, 1898, establishes a valid lien between the parties without registration, it does not require a stamp.

Ruling 91.—"In cases where the consideration in a deed is nominal, the actual value of the property conveyed should govern the amount of the stamp required. A conveyance of realty subject to a mortgage should be stamped according to the consideration or value of the property unencumbered. The consideration in such case is to be found by adding the amount paid for the equity of redemption to the mortgage debt."

This ruling has been modified by the same decision and to the same effect as ruling *77*, above noted.

Ruling 125.—"A bond secured by mortgage given by a private person in lieu of a promissory note is taxable as a promissory note and not as a bond."

This ruling has been revoked by Treasury Decision *20788*, dated March 2, 1899, following the opinion of the honorable Attorney-General, so that bonds given by private persons are included in the category of bonds of any description not otherwise provided for, and taxable at the rate of 50 cents each.

Ruling 126.—"Real estate mortgage notes require to be stamped in addition to the stamps placed on the mortgage."

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This ruling has been modified by the amendment of February 28, 1899, to Schedule A of the act of June 13, 1898, as follows:

"Whenever any bond or note shall be secured by a mortgage or deed of trust, but one stamp shall be required to be placed upon such papers: *Provided*, That the stamp tax placed thereon shall be the highest rate required for said instruments or either of them."

This amendment has been construed by the honorable Attorney-General in an opinion dated July 17, 1899, and published as Treasury Decision *21400*.

In accordance with this opinion this office has ruled in Treasury Decision 21471, dated August 7, 1899, that whenever the same mortgage secures more than one note the comparison should be made between the total tax accruing on all of the notes and the tax accruing on the mortgage, and the stamps representing the highest tax required by said instruments, or either of them, may be affixed to the notes, or the mortgage, as parties may elect.

Ruling 138.—"Where there is a pledge of property accompanying any promissory note, which pledge is subject to stamp tax under Schedule A, this stamp tax must be paid, notwithstanding the fact that a stamp is also required on the note connected with it."

This ruling has been amended by the amendment of February 28, 1899, quoted above. A pledge of property as security is considered to belong in the same category as mortgages or deeds of trust, and subject to the rulings above quoted, in connection with said amendment.

Ruling 143.—"Receipts given by a safe deposit company in renting boxes in the company's vaults are not subject to tax, nor are receipts given by such companies merely for the safe-keeping of money and valuables."

The word "valuables" as used in this ruling has been defined by Treasury Decision *21558*, dated August 30, 1899, as follows:

"The word 'valuables' in this connection is held to mean, in addition to money, only such articles as are generally so considered, such as bonds, stocks and other securities, gold and silver ware and bullion, watches and jewelry, and precious stones."

Books, household furniture, statuary, and wearing apparel will not be so considered, and when safe deposit or other companies receive such articles on deposit for hire they will be considered as held on storage, and the receipts issued therefor must be stamped with a 25-cent stamp, the same as warehouse receipts.

Ruling 154.—"Where certificates of shares were sold and delivered before July 1, 1898, entry of transfer on corporate books after June 30 does not require stamp."

This ruling has been revoked in consequence of an opinion of Assistant Attorney-General Boyd, to the effect that the purchase or transfer of stock is not complete until the stock is transferred on the books of the company to the purchaser, and, therefore, if such transfer takes place after the 1st of July, it is taxable.

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SPECIAL TAXES.

Modifications of former rulings.

Ruling 19797.—So much of Ruling 19797 as reads, "In estimating surplus this office holds that undivided profits must be included," has been modified in accordance with the opinion of the Attorney-General as published in Treasury Decisions 1899, volume 1, page 287 (No. 20681); and it is now held that undivided profits are not required to be taken into account in reckoning the amount of special tax that is to be paid by a bank unless they have been set apart by formal action of the board of directors for use in the banking business. (Ruling 21284, Treasury Decisions 1899, vol. 1, p. 1168.)

Ruling 19882, so far as it relates to undivided profits, is also modified in accordance with this later ruling.

Ruling 20064.—"A railroad company which has a park to promote excursions, although no admittance is charged and no charge is made for reserved seats, must pay special tax as for an exhibition or show for money."

This has been revoked by Ruling 21559, which holds that an entertainment given by a railway company to which no admission price is charged is not regarded as an exhibition or show for money under the eighth paragraph of section 2 of the act of June 13, 1898.

RULINGS IN CIRCULAR 508. (SEE P. 303 ET SEQ.)

Ruling 15.—"Persons whose practice it is to buy fee bills of witnesses are not brokers."

This has been modified by Ruling 20157, which holds that a person whose business it is to buy or sell city scrip and county warrants on commission is required to pay special tax as a broker. This ruling applies also to fee bills, as they are securities for the payment of money.

Ruling 21.—"Broker's tax is not required to be paid at branch offices where a clerk is employed whose sole duty it is to receive orders and transmit them by wire to the head of the office."

This has been modified by Ruling 20604, Treasury Decisions 1899, volume 1, page 177, which holds that special tax is required to be paid for every broker's branch office at which all equipments for business are kept, together with memorandum pads of transactions, ticker recording sales and purchases of stock exchange, and blackboard indicating value of stock.

Legacy tax.

Ruling 20461.—That part of this ruling which reads, "If an estate, valued at $188,000, had $100,000 debts charged against it, thus reduc-

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ing the amount subject to distribution to less than $100,000, the tax on the legacies must be paid as of an estate exceeding $100,000 in value and not exceeding $500,000," has been modified by Ruling 20587, namely: The whole amount of personal property left for distribution, after payment of the legal debts and expenses, determines the rate of tax imposed on legacies and distributive shares without regard to the amount or value of each legacy or share.

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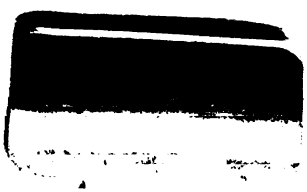

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